
STATUTORY INSTRUMENTS

1996 No. 1320 (N.I. 10)

NORTHERN IRELAND

The Road Traffic Offenders (Northern Ireland) Order 1996

*Made - - - - 15th May 1996
Coming into operation on days to be appointed under
Article 1*

At the Court at Buckingham Palace, the 15th day of May 1996

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1. This Order may be cited as the Road Traffic Offenders (Northern Ireland) Order 1996 and shall come into operation on such day or days as the head of the Department may by order appoint.

General interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“clerk of petty sessions” shall be construed in accordance with Article 2(4) of the Magistrates' Courts (Northern Ireland) Order 1981;

“disqualified” means disqualified for holding or obtaining a licence;

“licence” means a licence to drive a motor vehicle granted under Part II of the Order of 1981, and “counterpart” in relation to such a licence has the same meaning as in that Part of that Order;

“offence involving obligatory endorsement” has the meaning given in Article 3;

“offence involving obligatory disqualification” and “offence involving discretionary disqualification” have the meaning given in Article 4;

“the Order of 1981” means the Road Traffic (Northern Ireland) Order 1981;

“the Order of 1995” means the Road Traffic (Northern Ireland) Order 1995;

“petty sessions district” has the same meaning as in the Magistrates' Courts (Northern Ireland) Order 1981;

“provisional licence” means a licence granted by virtue of Article 13(2) of the Order of 1981;

“the provisions connected with the licensing of drivers” means Articles 3,4, 11, 12,24, 27 to 31, 33, 35 to 38 and 40 to 53;

“the Road Traffic Orders” means the Order of 1981, the Order of 1995 and this Order;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(3) Except where it is otherwise provided or the context so requires, any expression for whose interpretation provision is made by Part I of the Order of 1995 is to be construed in accordance with that provision.

(4) In this Order—

- (a) any reference to a licence and its counterpart shall, in relation to licences granted before 1st January 1991, be construed as a reference to a licence only, and
- (b) any reference to the counterpart of a licence shall, in relation to such licences, be construed as a reference to the licence itself.

(5) Subject to any express exception, references in this Order to any Part of this Order include a reference to any Schedule to this Order so far as relating to that Part.

Meaning of “offence involving obligatory endorsement”

3. For the purposes of this Order, an offence involves obligatory endorsement if it is an offence under a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or an offence specified in column 1 of Part II of that Schedule and either—

- (a) the word “obligatory” (without qualification) appears in column 6 (in the case of Part I) or column 3 (in the case of Part II) against the offence, or
- (b) that word appears there qualified by conditions relating to the offence which are satisfied.

Meaning of “offence involving obligatory disqualification” and “offence involving discretionary disqualification”

4.—(1) For the purposes of this Order, an offence involves obligatory disqualification if it is an offence under a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or an offence specified in column 1 of Part II of that Schedule and either—

- (a) the word “obligatory” (without qualification) appears in column 5 (in the case of Part I) or column 2 (in the case of Part II) against the offence, or
- (b) that word appears there qualified by conditions or circumstances relating to the offence which are satisfied or obtain.

(2) For the purposes of this Order, an offence involves discretionary disqualification if it is an offence under a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or an offence specified in column 1 of Part II of that Schedule and either—

- (a) the word “discretionary” (without qualification) appears in column 5 (in the case of Part I) or column 2 (in the case of Part II) against the offence, or
- (b) that word appears there qualified by conditions or circumstances relating to the offence which are satisfied or obtain.

PART II

TRIAL

Introductory

Requirement of warning etc. of prosecutions for certain offences

5.—(1) Subject to Article 6, a person shall not be convicted of an offence to which this Article applies unless—

- (a) he was warned at the time the offence was committed or within 24 hours thereafter that the question of prosecuting him for some one or other of the offences to which this Article applies would be taken into consideration, or
- (b) within 14 days of the commission of the offence a summons for the offence was served on him, or
- (c) within 14 days of the commission of the offence a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed, was—
 - (i) in the case of an offence under Article 42 or 43 of the Order of 1995 (cycling offences), served on him,
 - (ii) in the case of any other offence, served on him or on the person, if any, registered as the keeper of the vehicle at the time of the commission of the offence.

(2) A notice shall be deemed for the purposes of paragraph (1)(c) to have been served on a person if it was sent by registered post or recorded delivery service addressed to him at his last known address, notwithstanding that the notice was returned as undelivered or was for any other reason not received by him.

(3) The requirement of paragraph (1) shall in every case be deemed to have been complied with unless and until the contrary is proved.

(4) This Article applies to—

- (a) an offence under either of the following provisions of the Order of 1981—
 - (i) Article 155 (exceeding speed limit),
 - (ii) Article 156 (exceeding temporary or experimental speed limit);
- (b) an offence under any of the following provisions of the Order of 1995—
 - (i) Article 10 (dangerous driving),
 - (ii) Article 12 (careless, and inconsiderate, driving),
 - (iii) Article 32 (leaving vehicles in dangerous positions),
 - (iv) Article 42 (dangerous cycling),

- (v) Article 43 (careless, and inconsiderate, cycling),
 - (vi) Article 49 (contravention of traffic directions or traffic signs);
 - (c) an offence consisting of the driving of a vehicle in contravention of any regulation made under the Order of 1981 with respect to traffic signs
- (5) The Department may by order, made subject to negative resolution, specify any other offence to which this Article is to apply.

Requirement of warning etc: supplementary

6.—(1) The requirement of Article 5(1) does not apply in relation to an offence if, at the time of the offence or immediately after it, an accident occurs owing to the presence on a road of the vehicle in respect of which the offence was committed.

(2) The requirement of Article 5(1) does not apply in relation to an offence in respect of which—

- (a) a fixed penalty notice (within the meaning of Part IV) has been given or fixed under any provision of that Part; or
- (b) a notice has been given under Article 60(4).

(3) Failure to comply with the requirement of Article 5(1) is not a bar to the conviction of the accused in a case where the court is satisfied—

- (a) that the accused was not prejudiced in his defence by the failure; or
- (b) that neither the name and address of the accused nor the name and address of the registered keeper, if any, could with reasonable diligence have been ascertained in time for a summons to be served or for a notice to be served or sent in compliance with the requirement; or
- (c) that the accused by his own conduct contributed to the failure.

(4) Failure to comply with the requirement of Article 5(1) in relation to an offence is not a bar to the conviction of a person of that offence by virtue of the provisions of—

- (a) Article 26; or
- (b) section 6(2) of the Criminal Law Act (Northern Ireland) 1967;

but a person is not to be convicted of an offence by virtue of any of those provisions if Article 5 applies to the offence with which he was charged and the requirement of Article 5(1) was not satisfied in relation to the offence charged.

Restriction on institution of proceedings for certain offences

7. Proceedings for an offence under Article 11(3) of the Order of 1981 (notice about relevant or prospective disability) shall not be instituted except by the Department or by a constable acting with the approval of the Department.

Jurisdiction in prosecutions under Articles 56 and 81(1) of the Order of 1981

8. An offence under Article 56 of the Order of 1981 (or that Article as applied by Article 63 of that Order) or Article 81(1) of that Order may be treated, for the purpose of conferring jurisdiction on a court (but without prejudice to any jurisdiction it may have apart from this Article) as having been committed in any of the following places, that is to say—

- (a) the place where the person charged with the offence was driving when evidence of the offence first came to the attention of a constable or an examiner appointed under Article 74 of the Order of 1995;

- (b) the place where that person resides or is, or is believed to reside or be, at the time when the proceedings are commenced; or
- (c) the place where at that time that person or, in the case of an employee-driver, that person's employer or, in the case of an owner-driver, the person for whom he was driving, has his place or principal place of business or his operating centre for the vehicle in question.

Power to join in indictment counts for certain summary offences

9.—(1) A count charging a person with a summary offence to which this Article applies may be included in an indictment if the charge—

- (a) is founded on the same facts or evidence as a count charging an indictable offence; or
- (b) is part of a series of offences of the same or similar character as an indictable offence which is also charged,

but only if (in either case) the facts or evidence relating to the offence were disclosed in a preliminary investigation or inquiry under the Magistrates' Courts (Northern Ireland) Order 1981.

(2) Where a count charging an offence to which this Article applies is included in an indictment, the offence shall be tried in the same manner as if it were an indictable offence; but the Crown Court may only deal with the offender in respect of it in a manner in which a court of summary jurisdiction could have dealt with him.

(3) This Article applies to—

- (a) an offence under either of the following provisions of the Order of 1981—
 - (i) Article 90 (using motor vehicle without insurance or security against third party risks),
 - (ii) Article 175(2) (failure to comply with duties on occurrence of accident caused by a mechanically propelled vehicle);
- (b) an offence under any of the following provisions of the Order of 1995—
 - (i) Article 15(1) or (2) (driving or attempting to drive, or being in charge of, a mechanically propelled vehicle when under influence of drink or drugs),
 - (ii) Article 16(1)(a) or (b) (driving or attempting to drive, or being in charge of, a motor vehicle with alcohol concentration above the prescribed limit),
 - (iii) Article 18 (failing to provide specimen for analysis or laboratory test);
- (c) any summary offence specified under paragraph (4).

(4) The Secretary of State may by order specify for the purposes of this Article any summary offence—

- (a) which is mentioned in Schedule 1, and
- (b) which is punishable with imprisonment or involves obligatory or discretionary disqualification from driving.

(5) For the purposes of this Article statements in writing admitted in evidence under Article 33 of the Magistrates' Courts (Northern Ireland) Order 1981 shall be treated as depositions taken in the presence of the accused before the magistrates' court which committed him for trial.

(6) An order made under this Article shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(7) In this Article “summary offence” means an offence which, if committed by an adult, is punishable only on summary conviction.

Time within which summary proceedings for certain offences must be commenced

10.—(1) Notwithstanding anything in Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981, summary proceedings for an offence to which this Article applies may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the complainant to warrant the proceedings came to his knowledge; but no such proceedings shall be brought by virtue of this Article more than 3 years after the commission of the offence.

(2) For the purposes of this Article a certificate signed by or on behalf of the complainant and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(3) This Article applies to—

- (a) an offence under any of the following provisions of the Order of 1981—
 - (i) Article 11(3) (failure to notify Department of onset of, or deterioration in, relevant or prospective disability),
 - (ii) Article 15(7) (driving licence holder failing when his licence is revoked, to surrender it or, when his particulars become incorrect, to surrender the licence and counterpart and give particulars),
 - (iii) Article 90 (using, etc. motor vehicle without insurance or security against third party risks),
 - (iv) Article 166(1)(a) or (b) (applying for, or obtaining, driving licence while disqualified),
 - (v) Article 167(1)(a) (driving a motor vehicle while disqualified),
 - (vi) Article 167(3) (causing or permitting disqualified person to drive a motor vehicle),
 - (vii) Article 174(1) (making false statements or withholding information in connection with applications for licences, etc.);
- (b) an offence under Article 72 of this Order.

Duty of accused to provide licence

11. A person who is prosecuted for an offence involving obligatory or discretionary disqualification and who is the holder of a licence must—

- (a) cause it to be delivered to the clerk of the court before which the proceedings are brought, not later than the day before the date appointed for the hearing, or
- (b) post it, at such a time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the clerk and either registered or sent by the recorded delivery service, or
- (c) have it with him at the hearing;

and the foregoing obligations imposed on him as respects the licence also apply as respects the counterpart to the licence.

Duty to include date of birth and sex in written plea of guilty

12. A person who gives notification to the clerk of petty sessions in pursuance of Article 24(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (written pleas of guilty) in respect of an offence involving obligatory or discretionary disqualification or such other offence as may be prescribed by regulations made under Article 19C of the Order of 1981 (regulations under Part II of that Order), must include in the notification a statement of the date of birth and sex of the accused.

Trial

Mode of trial

13. An offence against a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or against regulations made under such a provision (the general nature of which offence is indicated in column 2) shall be punishable as shown against the offence in column 3 (that is, on summary conviction or on indictment or in either one way or the other).

Evidence by certificate as to driver, user or owner

14.—(1) In any proceedings for an offence under the Road Traffic Orders or any other statutory provision for the time being in force relating to the use of vehicles on roads, a certificate purporting to be signed by a member of the Royal Ulster Constabulary or a traffic warden and certifying that a person specified in the certificate stated to that member of the Royal Ulster Constabulary or to that traffic warden, as the case may be—

- (a) that a particular mechanically propelled vehicle was being driven or used by, or was in the charge of, or belonged to, that person on a particular occasion; or
- (b) that a particular mechanically propelled vehicle on a particular occasion was used by, or belonged to, a firm in which that person also stated that he was at the time of the statement a partner or an employee; or
- (c) that a particular mechanically propelled vehicle on a particular occasion was used by, or belonged to, a corporation of which that person also stated that he was at the time of the statement a director, officer or employee,

shall be admissible as evidence for the purpose of determining by whom the vehicle was being driven or used, or in whose charge it was, or to whom it belonged, as the case may be, on that occasion.

(2) Nothing in paragraph (1) makes a certificate admissible as evidence in proceedings for an offence except in a case where and to the like extent to which oral evidence to the like effect would have been admissible in those proceedings.

(3) Nothing in paragraph (1) makes a certificate admissible as evidence in proceedings for an offence—

- (a) unless a copy of the certificate has, not less than 7 days before the hearing or trial, been served on the person charged with the offence; or
- (b) if that person, not later than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, serves a notice on the complainant or his solicitor requiring the attendance at the trial of the person who signed the certificate.

Proof, in summary proceedings, of identity of driver of vehicle

15. Where in the summary trial for an offence to which Article 177 of the Order of 1981 (identification of drivers, etc. of vehicles) applies—

- (a) it is proved to the satisfaction of the court, on oath or in the manner prescribed by magistrates' courts rules, that a requirement under Article 177 of that Order to give information as to the identity of the driver of a particular vehicle on the particular occasion to which the complaint relates has been served on the accused; and
- (b) a statement in writing is produced to the court purporting to be signed by the accused that the accused was the driver of that vehicle on that occasion,

the court may accept that statement as evidence that the accused was the driver of that vehicle on that occasion.

Admissibility of records as evidence

16.—(1) This Article applies to a statement contained in a document purporting to be—

- (a) a part of the records maintained by the Department in connection with any functions exercisable by the Department by virtue of the Road Traffic Orders or a part of any other records maintained by the Department with respect to vehicles; or
- (b) a copy of a document forming part of those records; or
- (c) a note of any information contained in those records;

and to be authenticated by a person authorised in that behalf by the Department.

(2) A statement to which this Article applies shall be admissible in any proceedings as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

(3) In paragraphs (1) and (2)—

- (a) “document” and “statement” have the same meanings as in section 6(1) of the Civil Evidence Act (Northern Ireland) 1971, and
- (b) the reference to a copy of a document shall be construed in accordance with section 6(2) of that Act.

Nothing in this paragraph shall be construed as limiting to civil proceedings the references to proceedings in paragraphs (1) and (2).

(4) In any case where—

- (a) a statement to which this Article applies is produced to a court of summary jurisdiction in any proceedings for an offence involving obligatory or discretionary disqualification,
- (b) the statement specifies an alleged previous conviction of an accused person of any such offence or any order made on the conviction,
- (c) it is proved to the satisfaction of the court, on oath or in such manner as may be prescribed by magistrates' courts rules, that not less than 7 days before the statement is so produced a notice was served on the accused, in such form and manner as may be so prescribed, specifying the previous conviction or order and stating that it is proposed to bring it to the notice of the court in the event of or, as the case may be, in view of his conviction, and
- (d) the accused is not present in person before the court when the statement is so produced,

the court may take account of the previous conviction or order as if the accused had appeared and admitted it.

(5) Nothing in this Article shall enable evidence to be given with respect to any matter other than a matter of a description prescribed by magistrates' courts rules.

Use of records kept by operators of goods vehicles

17. In any proceedings for an offence under Article 54 of the Order of 1995 or for a contravention of construction and use (I requirements (within the meaning of Part III of that Order) or regulations under Article 82 of that Order, any record purporting to be made and authenticated in accordance with regulations under that Article shall be evidence of the matters stated in the record and of its due authentication.

Use of specimens in proceedings for an offence under Articles 14 to 16 of the Order of 1995

18.—(1) This Article and Article 19 apply in respect of proceedings for an offence under Articles 14 to 16 of the Order of 1995 (driving offences connected with drink or drugs); and expressions used in this Article and Article 19 have the same meaning as in Articles 14 to 21 of that Order.

(2) Evidence of the proportion of alcohol or any drug in a specimen of breath, blood or urine provided by the accused shall, in all cases (including cases where the specimen was not provided in connection with the alleged offence) be taken into account; and, subject to paragraph (3), it shall be assumed that the proportion of alcohol in the accused's breath, blood or urine at the time of the alleged offence was not less than in the specimen.

(3) That assumption shall not be made if the accused proves—

(a) that he consumed alcohol before he provided the specimen and—

- (i) in relation to an offence under Article 14, after the time of the alleged offence, and
- (ii) otherwise, after he had ceased to drive, attempt to drive or be in charge of a vehicle on a road or other public place, and

(b) that had he not done so the proportion of alcohol in his breath, blood or urine would not have exceeded the prescribed limit and, if it is alleged that he was unfit to drive through drink, would not have been such as to impair his ability to drive properly.

(4) A specimen of blood shall be disregarded unless it was taken from the accused with his consent by a medical practitioner.

(5) Where, at the time a specimen of blood or urine was provided by the accused, he asked to be provided with such a specimen, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless—

- (a) the specimen in which the alcohol or drug was found is one of 2 parts into which the specimen provided by the accused was divided at the time it was provided, and
- (b) the other part was supplied to the accused.

Documentary evidence as to specimens in such proceedings

19.—(1) Evidence of the proportion of alcohol or a drug in a specimen of breath, blood or urine may, subject to paragraphs (3) and (4) and to Article 18(5), be given by the production of a document or documents purporting to be whichever of the following is appropriate, that is to say—

- (a) a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a constable (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement, and
- (b) a certificate signed by an authorised analyst as to the proportion of alcohol or any drug found in a specimen of blood or urine identified in the certificate.

(2) Subject to paragraphs (3) and (4); evidence that a specimen of blood was taken from the accused with his consent by a medical practitioner may be given by the production of a document purporting to certify that fact and to be signed by that medical practitioner.

(3) Subject to paragraph (4)—

- (a) a document purporting to be such a statement or such a certificate (or both such a statement and such a certificate) as is mentioned in paragraph (1)(a) is admissible in evidence on behalf of the prosecution in pursuance of this Article only if a copy of it either has been handed to the accused when the document was produced or has been served on him not later than 7 days before the hearing, and
- (b) any other document is so admissible only if a copy of it has been served on the accused not later than 7 days before the hearing.

(4) A document purporting to be a certificate (or so much of a document as purports to be a certificate) is not so admissible if the accused, not later than 3 days before the hearing or within such further time as the court may in special circumstances allow, has served notice on the complainant

or his solicitor requiring the attendance at the hearing of the person by whom the document purports to be signed.

(5) A copy of a certificate required by this Article to be served on the accused or a notice required by this Article to be served on the complainant or his solicitor may be served personally or sent by registered post or recorded delivery service.

(6) In this Article “authorised analyst” means—

- (a) any person possessing the qualifications prescribed under Article 36 of the Food (Northern Ireland) Order 1989 as qualifying persons for appointment as public analysts; and
- (b) any other person authorised by the Department to make analyses for the purposes of this Article;

and a certificate signed by an authorised analyst for the purposes of paragraph (1)(b) shall also be evidence of his qualification as such.

Provisions as to proceedings for certain offences in connection with the construction and use of vehicles and equipment

20.—(1) If in any proceedings for an offence under Article 54, 56, 57 or 58 of the Order of 1995 (using vehicle in dangerous condition or contravention of construction and use regulations)—

- (a) any question arises as to a weight of any description specified in the plating certificate for a goods vehicle; and
- (b) a weight of that description is marked on the vehicle,

it shall be assumed, unless the contrary is proved, that the weight marked on the vehicle is the weight so specified.

(2) If, in any proceedings for an offence—

- (a) under Part III of the Order of 1995, except Articles 63 and 83, or
- (b) under Article 174 of the Order of 1981;

any question arises as to the date of manufacture of a vehicle, a date purporting to be such a date and marked on the vehicle in pursuance of regulations under Part III of the Order of 1995 shall be evidence that the vehicle was manufactured on the date so marked.

(3) If in any proceedings for the offence of driving a vehicle on a road, or causing or permitting a vehicle to be so driven, in contravention of a prohibition under Article 79(2) of the Order of 1995 any question arises whether a weight of any description has been reduced to a limit imposed by construction and use requirements, or so that it has ceased to be excessive the burden of proof shall lie on the accused.

Evidence of declaration for obtaining licence

21. In any proceedings the fact that a licence has been granted to a person shall be evidence that that person for the purpose of obtaining that licence made a declaration that he was not disqualified for holding or obtaining the licence.

Evidence by certificate as to registration of driving instructors and licences to give instruction

22.—(1) A certificate signed by or on behalf of the Department and stating that, on any date—

- (a) a person’s name was, or was not, on the register of approved driving instructors;
- (b) the entry of a person’s name was made in that register or a person’s name was removed from that register;

- (c) a person was, or was not, the holder of a current licence under Article 135 of the Order of 1981 (licences to give driving instruction for payment); or
- (d) a licence under Article 135 of that Order granted to a person came into force or ceased to be in force;

shall be evidence of the facts stated in the certificate in pursuance of this Article.

(2) A certificate so stating and purporting to be signed by or on behalf of the Department shall be deemed to be so signed unless the contrary is proved.

(3) In this Article—

- (a) “current licence” has the meaning given in Article 133(5) of the Order of 1981; and
- (b) “register of approved driving instructors” means the register maintained by the Department under Article 132 of that Order.

Speeding offences etc: admissibility of certain evidence

23.—(1) Evidence of a fact relevant to proceedings for an offence to which this Article applies may be given by the production of—

- (a) a record produced by a prescribed device, and
- (b) (in the same or another document) a certificate as to the circumstances in which the record was produced signed by a constable or by a person authorised by or on behalf of the Chief Constable;

but subject to the following provisions of this Article.

(2) This Article applies to—

- (a) an offence under Article 155 of the Order of 1981 (exceeding speed limit);
- (b) an offence under Article 156 of that Order (exceeding temporary or experimental speed limit);
- (c) an offence under Article 49 of the Order of 1995 consisting in the failure to comply with an indication given in a light signal that vehicular traffic may not proceed;
- (d) an offence under paragraph (4) of Article 20 of the Roads (Northern Ireland) Order 1993 consisting in the contravention of a restriction on the speed of vehicles imposed under that Article.

(3) The Department may by order amend paragraph (2) by making additions to or deletions from the list of offences for the time being set out there; and an order under this paragraph may make such transitional provision as appears to it to be necessary or expedient.

(4) A record produced or measurement made by a prescribed device shall not be admissible as evidence of a fact relevant to proceedings for an offence to which this Article applies unless—

- (a) the device is of a type approved by the Department, and
- (b) any conditions subject to which the approval was given are satisfied.

(5) Any approval given by the Department for the purposes of this Article may be given subject to conditions as to the purposes for which, and the manner and other circumstances in which, any device of the type concerned is to be used.

(6) In proceedings for an offence to which this Article applies, evidence—

- (a) of a measurement made by a device, or of the circumstances in which it was made, or
- (b) that a device was of a type approved for the purposes of this Article, or that any conditions subject to which an approval was given were satisfied,

may be given by the production of a document which is signed as mentioned in paragraph (1) and which, as the case may be, gives particulars of the measurement or of the circumstances in which it was made, or states that the device was of such a type or that, to the best of the knowledge and belief of the person making the statement, all such conditions were satisfied.

(7) For the purposes of this Article a document purporting to be a record of the kind mentioned in paragraph (1) or to be a certificate or other document signed as mentioned in that paragraph or in paragraph (6), shall be deemed to be such a record, or to be so signed, unless the contrary is proved.

(8) Nothing in paragraph (1) or (6) makes a document admissible as evidence in proceedings for an offence unless a copy of it has, not less than 7 days before the hearing or trial, been served on the person charged with the offence; and nothing in those paragraphs makes a document admissible as evidence of anything other than the matters shown on a record produced by a prescribed device if that person, not less than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, serves a notice on the complainant requiring attendance at the hearing or trial of the person who signed the document.

(9) In this Article “prescribed device” means a device of a description prescribed in an order made by the Department.

(10) Orders made under paragraphs (3) and (9) shall be subject to negative resolution.

Notification of disability

24.—(1) If in any proceedings for an offence committed in respect of a motor vehicle it appears to the court that the accused may be suffering from any relevant disability or prospective disability (within the meaning of Part II of the Order of 1981) the court must notify the Department.

(2) A notice sent by a court to the Department in pursuance of this Article must be sent in such manner and to such address and contain such particulars as the Department may determine.

Saving as to offence provisions etc.

25.—(1) Except as provided by paragraph (2), nothing in this Order shall exclude the application to any of the offences to which the Road Traffic Orders relate of any enactment or rule of law—

- (a) authorising the summary trial of young offenders for indictable offences; or
- (b) restricting the power of a court to imprison young offenders; or
- (c) authorising an offender to be dealt with in any manner not authorised by the enactments specially relating to his offence; or
- (d) authorising a jury to find a person guilty of an offence other than that with which he is charged.

(2) Where under or in consequence of any provision of this Order a magistrates' court has power to impose imprisonment for a term exceeding 6 months or to order a person to be imprisoned in respect of the non-payment of a fine or in default of sufficient distress to satisfy the amount of that fine, for a term in addition and succession to a term of imprisonment imposed for the same offence as the fine, nothing in Article 56 of the Magistrates' Courts (Northern Ireland) Order 1981, or in any enactment other than this Order shall operate to limit the aggregate period of any 2 or more consecutive terms so imposed or ordered.

Alternative verdicts

26.—(1) Where—

- (a) a person charged with an offence under a provision of the Order of 1995 specified in the first column of the Table below (where the general nature of the offences is also indicated) is found not guilty of that offence, but

- (b) the allegations in the indictment or complaint amount to or include an allegation of an offence under one or more of the provisions specified in the corresponding entry in the second column,

he may be convicted of that offence or of one or more of those offences.

(1) Offence charged	(2) Alternative
Article 9 (causing death, or grievous bodily injury, by dangerous driving) inconsiderate, driving)	Article 10 (dangerous driving)
Article 10 (dangerous driving)	Article 12 (careless, and inconsiderate, driving)
Article 14 (causing death, or grievous bodily injury, by careless driving when under influence of drink or drugs)	Article 12 (careless, and inconsiderate, driving)
	Article 15(1) (driving when unfit to drive through drink or drugs)
	Article 16(1)(a) (driving with excess alcohol in breath, blood or urine)
	Article 18(7) (failing to provide specimen)
Article 15(1) (driving or attempting to drive when unfit to drive through drink or drugs)	Article 15(2) (being in charge of a vehicle when unfit to drive through drink or drugs)
Article 16(1)(a) (driving or attempting to drive with excess alcohol in breath, blood or urine)	Article 16(1)(b) (being in charge of a vehicle with excess alcohol in breath, blood or urine)
Article 42 (dangerous cycling)	Article 43 (careless, and inconsiderate, cycling)

(2) Where the offence with which a person is charged is an offence under Article 14 of the Order of 1995, paragraph (1) shall not authorise his conviction of any offence of attempting to drive.

(3) Where a person is charged with having committed an offence under Article 15(1) or 16(1) (a) of the Order of 1995 by driving a vehicle, he may be convicted of having committed an offence under the provision in question by attempting to drive.

(4) Where by virtue of this Article a person is convicted before the Crown Court of an offence triable only summarily, the court shall have the same powers and duties as a court of summary jurisdiction would have had on convicting him of that offence.

(5) This Article has effect without prejudice to section 6(2) of the Criminal Law Act (Northern Ireland) 1967 (alternative verdicts on trial on indictment).

Information as to date of birth and sex

27.—(1) If on convicting a person of an offence involving obligatory or discretionary disqualification or of such other offence as may be prescribed by regulations made under Article 19C of the Order of 1981 the court does not know his date of birth, the court must order him to give that date to the court in writing.

(2) If a court convicting a person of such an offence in a case where—

- notification has been given to the clerk of petty sessions in pursuance of Article 24(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (written pleas of guilty), and
- the notification did not include a statement of the person's sex,

does not know the person's sex, the court must order the person to give that information to the court in writing.

(3) A person who knowingly fails to comply with an order under paragraph (1) or (2) is guilty of an offence.

(4) Where a person has given his date of birth in accordance with this Article or Article 12, the Department may serve on that person a notice in writing requiring him to provide the Department—

- (a) with such evidence in that person's possession or obtainable by him as the Department may specify for the purpose of verifying that date, and
- (b) if his name differs from his name at the time of his birth, with a statement in writing specifying his name at that time.

(5) A person who knowingly fails to comply with a notice under paragraph (4) is guilty of an offence.

Interim disqualification

28.—(1) Where a court—

- (a) defers passing sentence on an offender under Article 11 of the Treatment of Offenders (Northern Ireland) Order 1989 in respect of an offence involving obligatory or discretionary disqualification, or
- (b) adjourns after convicting an offender of such an offence but before dealing with him for the offence,

it may order the offender to be disqualified until he has been dealt with in respect of the offence.

(2) An order under paragraph (1) shall cease to have effect at the end of the period of 6 months beginning with the day on which it is made, if it has not ceased to have effect before that time.

(3) Where a court orders a person to be disqualified under paragraph (1) ("the first order"), no court shall make a further order under that paragraph in respect of the same offence or any offence in respect of which an order could have been made under that paragraph at the time the first order was made.

(4) Where a court makes an order under paragraph (1) in respect of any person it must—

- (a) require him to produce to the court any licence held by him and its counterpart, and
- (b) retain the licence and counterpart until it deals with him.

(5) If the holder of the licence has not caused it and its counterpart to be delivered, or has not posted them, in accordance with Article 1 I and does not produce the licence and counterpart as required under paragraph (4), then he is guilty of an offence.

(6) Paragraph (5) does not apply to a person who—

- (a) satisfies the court that he has applied for a new licence and has not received it, or
- (b) surrenders to the court a current receipt for his licence and its counterpart issued under Article 62, and produces the licence and counterpart to the court immediately on their return.

(7) Where a court makes an order under paragraph (1) in respect of any person, Articles 49(1) and 52(2) of this Order and Article 19E(3) of the Order of 1981 (Northern Ireland drivers' licences) shall not apply in relation to the order, but—

- (a) the court must send notice of the order to the Department, and
- (b) if the court which deals with the offender determines not to order him to be disqualified under Article 35 or 40, it must send notice of the determination to the Department.

(8) A notice sent by a court to the Department in pursuance of paragraph (7) must be sent in such manner and to such address and contain such particulars as the Department may determine.

(9) Where on any occasion a court deals with an offender—

(a) for an offence in respect of which an order was made under paragraph (1), or

(b) for 2 or more offences in respect of any of which such an order was made,

any period of disqualification which is on that occasion imposed under Article 35 or 40 shall be treated as reduced by any period during which he was disqualified by reason only of an order made under paragraph (1) in respect of any of those offences.

(10) Any reference in this Order or in any other statutory provision (including any provision made after this Order) to the length of a period of disqualification shall, unless the context otherwise requires, be construed as a reference to its length before any reduction under this Article.

PART III

SENTENCE

Introductory

Production of licence

29.—(1) Where a person who is the holder of a licence is convicted of an offence involving obligatory or discretionary disqualification, and a court proposes to make an order disqualifying him or an order under Article 49, the court must, unless it has already received them, require the licence and its counterpart to be produced to it.

(2) If the holder of the licence has not caused it and its counterpart to be delivered, or posted it and its counterpart, in accordance with Article 11 and does not produce it and its counterpart as required under this Article or under Article 8 of the Criminal Justice (Northern Ireland) Order 1980 then, unless he satisfies the court that he has applied for a new licence and has not received it—

(a) he is guilty of an offence, and

(b) the licence shall be suspended from the time when its production was required until it and its counterpart are produced to the court and shall, while suspended, be of no effect.

(3) Paragraph (2) does not apply where the holder of the licence—

(a) has caused a current receipt for the licence and its counterpart issued under Article 62 to be delivered to the clerk of the court before which the proceedings were brought not later than the day before the date appointed for the hearing, or

(b) has posted such a receipt, at such time that in the ordinary course of post it would be delivered not later than that day, in a letter duly addressed to the clerk and either registered or sent by the recorded delivery service, or

(c) surrenders such a receipt to the court at the hearing,

and produces the licence and its counterpart to the court immediately on their return.

Penalty points to be attributed to an offence

30.—(1) Where a person is convicted of an offence involving obligatory endorsement, then, subject to the following provisions of this Article, the number of penalty points to be attributed to the offence is—

- (a) the number shown in relation to the offence in the last column of Part I or Part II of Schedule 1, or
 - (b) where a range of numbers is shown, a number within that range.
- (2) Where a person is convicted of an offence committed by aiding, abetting, counselling or procuring, or inciting to the commission of, an offence involving obligatory disqualification, then, subject to the following provisions of this Article, the number of penalty points to be attributed to the offence is 10.
- (3) Where a range of numbers is shown in the last column of Part I or Part II of Schedule 1 in relation to an offence, the lowest number in the range is the number of penalty points to be attributed to the offence for the purposes of Article 63(5) or 82(4).
- (4) Where a person is convicted (whether on the same occasion or not) of 2 or more offences committed on the same occasion and involving obligatory endorsement, the total number of penalty points to be attributed to them is the number or highest number that would be attributed on a conviction of one of them (so that if the convictions are on different occasions the number of penalty points to be attributed to the offences on the later occasion or occasions shall be restricted accordingly).
- (5) In a case where (apart from this paragraph) paragraph (4) would apply to 2 or more offences, the court may if it thinks fit determine that that paragraph shall not apply to the offences (or, where 3 or more offences are concerned, to any one or more of them).
- (6) Where a court makes such a determination it shall state the reasons for the determination in the order of the court.
- (7) The Department may by order—
- (a) alter a number or range of numbers shown in relation to an offence in the last column of Part I or Part II of Schedule 1 (by substituting one number or range for another, a number for a range, or a range for a number), and
 - (b) alter the number of penalty points shown in paragraph (2);
- and an order under this paragraph may provide for different numbers or ranges of numbers to be shown in relation to the same offence committed in different circumstances.
- (8) An order under paragraph (7) shall be made subject to affirmative resolution.

Penalty points to be taken into account on conviction

31.—(1) Where a person is convicted of an offence involving obligatory endorsement, the penalty points to be taken into account on that occasion are (subject to paragraph (2))—

- (a) any that are to be attributed to the offence or offences of which he is convicted, disregarding any offence in respect of which an order under Article 35 is made, and
- (b) any that were on a previous occasion ordered to be endorsed on the counterpart of any licence held by him, unless the offender has since that occasion and before the conviction been disqualified under Article 40.

(2) If any of the offences was committed more than 3 years before another, the penalty points in respect of that offence shall not be added to those in respect of the other.

Penalty points: modification where fixed penalty also in question

32.—(1) Articles 30 and 31 shall have effect subject to this Article in any case where—

- (a) a person is convicted of an offence involving obligatory endorsement, and

- (b) the court is satisfied that the counterpart of his licence has been or is liable to be endorsed under Article 63 or 82 in respect of an offence (referred to in this Article as the “connected offence”) committed on the same occasion as the offence of which he is convicted.
- (2) The number of penalty points to be attributed to the offence of which he is convicted is—
 - (a) the number of penalty points to be attributed to that offence under Article 30 apart from this Article, less
 - (b) the number of penalty points required to be endorsed on the counterpart of his licence under Article 63 or 82 in respect of the connected offence (except so far as they have already been deducted by virtue of this sub-paragraph).

Court may take particulars endorsed on licence into consideration

33. Where a person is convicted of an offence involving obligatory or discretionary disqualification and his licence and its counterpart are produced to the court—

- (a) any existing endorsement on the counterpart of his licence is prima facie evidence of the matters endorsed, and
- (b) the court may, in determining what order to make in pursuance of the conviction, take those matters into consideration.

Fine and imprisonment

Fine and imprisonment

34.—(1) Where a person is convicted of an offence against a provision of the Road Traffic Orders specified in column 1 of Part I of Schedule 1 or regulations made under any such provision, the maximum punishment by way of fine or imprisonment which may be imposed on him is that shown in column 4 against the offence; and (where appropriate) the circumstances or the mode of trial are there specified.

(2) Any reference in column 4 of that Part to a period of years or months is to be construed as a reference to a term of imprisonment of that duration.

Disqualification

Disqualification for certain offences

35.—(1) Where a person is convicted of an offence involving obligatory disqualification, the court must order him to be disqualified for such period not less than 12 months as the court thinks fit unless the court for special reasons thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified.

(2) Where a person is convicted of an offence involving discretionary disqualification, and either

- (a) the penalty points to be taken into account on that occasion number fewer than 12, or
- (b) the offence is not one involving obligatory endorsement,

the court may order him to be disqualified for such period as the court thinks fit.

(3) Where a person convicted of an offence under any of the following provisions of the Order of 1995, that is—

- (a) Article 14 (causing death, or grievous bodily injury, by careless driving when under the influence of drink or drugs),

- (b) Article 15(1) (driving or attempting to drive while unfit),
- (c) Article 16(1)(a) (driving or attempting to drive with excess alcohol),
- (d) Article 18(7) (failing to provide a specimen), where that is an offence involving obligatory disqualification,

has within the 10 years immediately preceding the commission of the offence been convicted of any such offence, paragraph (1) shall apply in relation to him as if the reference to 12 months were a reference to 3 years.

This paragraph is subject to Article 96.

(4) Subject to paragraph (3), paragraph (1) shall apply as if the reference to 12 months were a reference to 2 years, in relation to—

- (a) a person convicted of—
 - (i) manslaughter, or
 - (ii) an offence under Article 9 of the Order of 1995 (causing death, or grievous bodily injury, by dangerous driving), or
 - (iii) an offence under Article 14 of that Order (causing death, or grievous bodily injury, by careless driving when under the influence of drink or drugs), and
- (b) a person on whom more than one disqualification for a fixed period of 56 days or more has been imposed within the 3 years immediately preceding the commission of the offence.

(5) For the purposes of paragraph (4)(b) there shall be disregarded any disqualification imposed under Article 28 of this Order or Article 8 of the Criminal Justice (Northern Ireland) Order 1980 (offences committed using a motor vehicle) and any disqualification imposed in respect of an offence of stealing a motor vehicle, an offence under section 12 or 24 of the Theft Act (Northern Ireland) 1969, an offence under Article 172 of the Order of 1981, or an attempt to commit such an offence.

(6) The preceding provisions of this Article shall apply in relation to a conviction of an offence committed by aiding, abetting, counselling or procuring, or inciting to the commission of, an offence involving obligatory disqualification as if the offence were an offence involving discretionary disqualification.

(7) This Article is subject to Article 53.

Reduced disqualification period for attendance on courses

36.—(1) This Article applies where—

- (a) a person is convicted of an offence under any of the following provisions of the Order of 1995, namely Article 14 (causing death, or grievous bodily injury, by careless driving when under influence of drink or drugs), Article 15 (driving or being in charge when under influence of drink or drugs), Article 16 (driving or being in charge with excess alcohol) or Article 18 (failing to provide a specimen), and
- (b) the court makes an order under Article 35 of this Order disqualifying him for a period of not less than 12 months.

(2) Where this Article applies, the court may make an order that the period of disqualification imposed under Article 35 shall be reduced if, by a date specified in the order under this Article, the offender satisfactorily completes a course approved by the Department for the purposes of this Article and specified in the order.

(3) The reduction made by an order under this Article in a period of disqualification imposed under Article 35 shall be a period specified in the order of not less than 3 months and not more than one quarter of the unreduced period (and accordingly where the period imposed under Article 35 is 12 months, the reduced period shall be 9 months).

- (4) The court shall not make an order under this Article unless—
 - (a) it is satisfied that a place on the course specified in the order will be available for the offender,
 - (b) the offender appears to the court to be of or over the age of 17,
 - (c) the court has explained the effect of the order to the offender in ordinary language, and has informed him of the amount of the fees for the course and of the requirement that he must pay them before beginning the course, and
 - (d) the offender has agreed that the order should be made.
- (5) The date specified in an order under this Article as the latest date for completion of a course must be at least 2 months before the last day of the period of disqualification as reduced by the order.
- (6) An order under this Article shall name the petty sessions district in which the offender resides or will reside.

Certificates of completion of courses

37.—(1) An offender shall be regarded for the purposes of Article 36 as having completed a course satisfactorily if (and only if) a certificate that he has done so is received by the clerk of the supervising court before the end of the period of disqualification imposed under Article 35.

(2) If the certificate referred to in paragraph (1) is received by the clerk of the supervising court before the end of the period of disqualification imposed under Article 35 but after the end of the period as it would have been reduced by the order, the order shall have effect as if the reduced period ended with the day on which the certificate is received by the clerk.

(3) The certificate referred to in paragraph (1) shall be a certificate in such form, containing such particulars, and given by such person, as may be prescribed by, or determined in accordance with, regulations made by the Department.

(4) A course organiser shall give the certificate mentioned in paragraph (1) to the offender not later than 14 days after the date specified in the order as the latest date for completion of the course, unless the offender fails to make due payment of the fees for the course, fails to attend the course in accordance with the organiser's reasonable instructions, or fails to comply with any other reasonable requirements of the organiser.

(5) Where a course organiser decides not to give the certificate mentioned in paragraph (1) he shall give written notice of his decision to the offender, as soon as possible, and in any event not later than 14 days after the date specified in the order as the latest date for completion of the course.

(6) An offender to whom a notice is given under paragraph (5) may, within such period as may be prescribed by magistrates' courts rules, apply to the supervising court for a declaration that the course organiser's decision not to give a certificate was contrary to paragraph (4); and if the court grants the application Article 36 shall have effect as if the certificate had been duly received by the clerk of the court.

(7) If 14 days after the date specified in the order as the latest date for completion of the course the course organiser has given neither the certificate mentioned in paragraph (1) nor a notice under paragraph (5), the offender may, within such period as may be prescribed by magistrates' courts rules, apply to the supervising court for a declaration that the course organiser is in default; and if the court grants the application Article 36 shall have effect as if the certificate had been duly received by the clerk of the court.

(8) A notice under paragraph (5) shall specify the ground on which it is given, and the Department may by regulations make provision as to the form of notices under that paragraph and as to the circumstances in which they are to be treated as given.

(9) Where the clerk of a court receives a certificate of the kind referred to in paragraph (1), or a court grants an application under paragraph (6) or (7), the clerk or court must send notice of that fact to the Department; and the notice must be sent in such manner and to such address, and must contain such particulars, as the Department may determine.

Provisions supplementary to Articles 36 and 37

38.—(1) The Department may issue guidance to course organisers, or to any category of course organiser as to the conduct of courses approved for the purposes of Article 36; and—

- (a) course organisers shall have regard to any guidance given to them under this paragraph, and
- (b) in determining for the purposes of Article 37(6) whether any instructions or requirements of an organiser were reasonable, a court shall have regard to any guidance given to him under this paragraph.

(2) In Articles 36 and 37 and this Article—

“course organiser”, in relation to a course, means the person who, in accordance with regulations made by the Department, is responsible for giving the certificates mentioned in Article 37(1) in respect of the completion of the course;

“supervising court”, in relation to an order under Article 36, means a court of summary jurisdiction acting for the petty sessions district named in the order as the district where the offender resides or will reside; and any reference to the clerk of such a court is a reference to the clerk of petty sessions for the petty sessions district for which the court acts.

(3) Regulations under Article 37 or this Article—

- (a) may include such incidental or supplementary provision as appears to the Department to be necessary or expedient; and
- (b) shall be subject to negative resolution.

Experimental period for Article 36

39.—(1) Subject to the following provisions, no order shall be made under Article 36 after the end of 2000 or such later time as may be specified in an order made by the Department.

(2) At any time before the restriction imposed by paragraph (1) has taken effect, the Department may by order provide that it shall not do so.

(3) In this Article “the experimental period” means the period beginning when Articles 36 to 38 come into operation and ending—

- (a) when the restriction imposed by paragraph (1) takes effect, or
- (b) .if the Department makes an order under paragraph (2), on a date specified in the order (being a date falling before the time when the restriction imposed by paragraph (1) would otherwise have taken effect).

(4) During the experimental period—

- (a) no order shall be made under Article 36 by virtue of a person’s conviction under Article 14 of the Order of 1995, and
- (b) no order shall be made under Article 36 except by a court of summary jurisdiction acting for a petty sessions district which is for the time being designated for the purposes of this Article.

(5) In relation to orders made under Article 36 during the experimental period, that Article shall have effect with the omission of paragraph (6) and Article 37 shall have effect as if references to the supervising court were references to the court which made the order.

(6) The power to designate a district for the purposes of this Article shall be exercisable by the Lord Chancellor by order, and includes power to revoke any designation previously made.

(7) An order under paragraph (6)—

- (a) shall specify the period for which a district is designated, and
- (b) may extend or abridge any period previously specified.

(8) The power to make an order under paragraph (1) shall not be exercisable after the end of 2000, and no more than one order may be made under that paragraph.

(9) Any order made by the Department under this Article shall be subject to affirmative resolution.

(10) Any order made by the Lord Chancellor under paragraph (6) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

Disqualification for repeated offences

40.—(1) Where—

- (a) a person is convicted of an offence to which this paragraph applies, and
- (b) the penalty points to be taken into account on that occasion number 12 or more,

the court must order him to be disqualified for not less than the minimum period unless the court is satisfied, having regard to all the circumstances, that there are grounds for mitigating the normal consequences of the conviction and thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified.

(2) Paragraph (1) applies to—

- (a) an offence involving discretionary disqualification and obligatory endorsement, and
- (b) an offence involving obligatory disqualification in respect of which no order is made under Article 35.

(3) The minimum period referred to in paragraph (1) is—

- (a) 6 months if no previous disqualification imposed on the offender is to be taken into account, and
- (b) one year if one, and 2 years if more than one, such disqualification is to be taken into account,

and a previous disqualification imposed on an offender is to be taken into account if it was for a fixed period of 56 days or more and was imposed within the 3 years immediately preceding the commission of the latest offence in respect of which penalty points are taken into account under Article 31.

(4) Where an offender is convicted on the same occasion of more than one offence to which paragraph (1) applies—

- (a) not more than one disqualification shall be imposed on him under paragraph (1),
- (b) in determining the period of the disqualification the court must take into account all the offences, and
- (c) for the purposes of any appeal any disqualification imposed under paragraph (1) shall be treated as an order made on the conviction of each of the offences.

(5) No account is to be taken under paragraph (1) of any of the following circumstances—

- (a) any circumstances that are alleged to make the offence or any of the offences not a serious one,
- (b) hardship, other than exceptional hardship, or

(c) any circumstances which, within the 3 years immediately preceding the conviction, have been taken into account under that paragraph in ordering the offender to be disqualified for a shorter period or not ordering him to be disqualified.

(6) References in this Article to a disqualification do not include a disqualification imposed under Article 28 of this Order or Article 8 of the Criminal Justice (Northern Ireland) Order 1980 (disqualification where vehicle used for commission of offence) or a disqualification imposed in respect of an offence of stealing a motor vehicle, an offence under section 12 or 24 of the Theft Act (Northern Ireland) 1969, an offence under Article 172 of the Order of 1981, or an attempt to commit such an offence.

(7) The preceding provisions of this Article shall apply in relation to a conviction of an offence committed by aiding, abetting, counselling, procuring, or inciting to the commission of, an offence involving obligatory disqualification as if the offence were an offence involving discretionary disqualification.

(8) This Article is subject to Article 53.

Disqualification until test is passed

41.—(1) Where this paragraph applies to a person the court must order him to be disqualified until he passes the appropriate driving test.

(2) Paragraph (1) applies to a person who is disqualified under Article 35 on conviction of—

- (a) manslaughter by the driver of a motor vehicle, or
- (b) an offence under Article 9 of the Order of 1995 (causing death, or grievous bodily injury, by dangerous driving) or Article 10 of that Order (dangerous driving).

(3) Paragraph (1) also applies—

- (a) to a person who is disqualified under Article 35 or 40 in such circumstances or for such period as the Department may by order prescribe, or
- (b) to such other persons convicted of such offences involving obligatory endorsement as may be so prescribed.

(4) Where a person to whom paragraph (1) does not apply is convicted of an offence involving obligatory endorsement, the court may order him to be disqualified until he passes the appropriate driving test (whether or not he has previously passed any test).

(5) In this Article—

“appropriate driving test” means—

- (a) an extended driving test, where a person—
 - (i) is convicted of such an offence as the Department may by order prescribe, or
 - (ii) is disqualified under Article 40,

(b) a test of competence to drive, other than an extended driving test, in any other case,

“extended driving test” means a test of competence to drive prescribed by the Department by order for the purposes of this Article, and

“test of competence to drive” means a test prescribed by virtue of Article 5(3) of the Order of 1981.

(6) In determining whether to make an order under paragraph (4), the court shall have regard to the safety of road users.

(7) Where a person is disqualified until he passes the extended driving test—

- (a) any earlier order under this Article shall cease to have effect, and
- (b) a court shall not make a further order under this Article while he is so disqualified.

(8) Subject to paragraph (9), a disqualification by virtue of an order under this Article shall be deemed to have expired on production to the Department of evidence, in such form as may be prescribed by regulations under Article 5(3) of the Order of 1981, that the person disqualified has passed the test in question since the order was made.

(9) A disqualification shall be deemed to have expired only in relation to vehicles of such classes as may be prescribed in relation to the test passed by regulations under that Article.

(10) Where there is issued to a person a licence on the counterpart of which are endorsed particulars of a disqualification under this Article, there shall also be endorsed the particulars of any test of competence to drive that he has passed since the order of disqualification was made.

(11) For the purposes of an order under this Article, a person shall be treated as having passed a test of competence to drive other than an extended driving test if he passes a corresponding test conducted—

- (a) under the law of Great Britain, the Isle of Man, any of the Channel Islands, another member State, Gibraltar or a designated country or territory (as defined by Article 5(12) of the Order of 1981), or
- (b) for the purposes of obtaining a British Forces licence (as defined by Article 4(10) of that Order),

and accordingly paragraphs (8) to (10) shall apply in relation to such a test as they apply in relation to a test prescribed by virtue of Article 5(3) of that Order.

(12) This Article is subject to Article 53.

(13) An order under paragraph (3) or an order under paragraph (5) prescribing an offence for the purposes of paragraph (a)(i) of the definition of “appropriate driving test” shall be subject to affirmative resolution.

(14) The Department shall not make an order under paragraph (3) after the end of 2004 if it has not previously made such an order.

Effect of order of disqualification

42.—(1) Where the holder of a licence is disqualified by an order of a court, the licence shall be treated as being revoked with effect from the beginning of the period of disqualification.

(2) Where—

- (a) the disqualification is for a fixed period shorter than 56 days in respect of an offence involving obligatory endorsement, or
- (b) the order is made under Article 28,

paragraph (1) shall not prevent the licence from again having effect at the end of the period of disqualification.

(3) Where the holder of the licence appeals against the order and the disqualification is suspended under Article 44, the period of disqualification shall be treated for the purpose of paragraph (1) as beginning on the day on which the disqualification ceases to be suspended.

(4) Notwithstanding anything in Part II of the Order of 1981, a person disqualified by an order of a court under Article 41 is (unless he is also disqualified otherwise than by virtue of such an order) entitled to obtain and to hold a provisional licence and to drive a motor vehicle in accordance with the conditions subject to which the provisional licence is granted.

Appeal against disqualification

43. A person disqualified by an order of a court under Article 28, 35, 40 or 41(4) may appeal against the order in the same manner as against a conviction.

Suspension of disqualification pending appeal

44.—(1) Any court (whether a court of summary jurisdiction or another) which makes an order disqualifying a person may, if it thinks fit, suspend the disqualification pending an appeal against the order.

(2) Where a court exercises its power under paragraph (1), it must send notice of the suspension to the Department.

(3) The notice must be sent in such manner and to such address and must contain such particulars as the Department may determine.

Power of appellate courts to suspend disqualification

45.—(1) This Article applies where a person has been convicted by or before a court of an offence involving obligatory or discretionary disqualification and has been ordered to be disqualified; and in the following provisions of this Article—

- (a) any reference to a person ordered to be disqualified is to be construed as a reference to a person so convicted and so ordered to be disqualified, and
- (b) any reference to his sentence includes a reference to the order of disqualification and to any other order made on his conviction and, accordingly, any reference to an appeal against his sentence includes a reference to an appeal against any order forming part of his sentence.

(2) Where a person ordered to be disqualified—

- (a) appeals to the county court, or
- (b) appeals or applies for leave to appeal to the Court of Appeal,

against his conviction or his sentence, the county court or, as the case may require, the Court of Appeal may, if it thinks fit, suspend the disqualification.

(3) Where a person ordered to be disqualified has appealed or applied for leave to appeal to the House of Lords under section 41 of the Judicature (Northern Ireland) Act 1978 from any decision of the High Court or the Court of Appeal which is material to his conviction or sentence, the High Court or, as the case may require, the Court of Appeal may, if it thinks fit, suspend the disqualification.

(4) Where a person ordered to be disqualified makes an application in respect of the decision of the court in question under Article 146 of the Magistrates' Courts (Northern Ireland) Order 1981 (statement of case by magistrates' court) or under Article 61 of the County Courts (Northern Ireland) Order 1980 (statement of case by county court) the Court of Appeal may, if it thinks fit, suspend the disqualification.

(5) Where a person ordered to be disqualified—

- (a) applies to the High Court for an order of certiorari to remove into the High Court any proceedings of a county court or a court of summary jurisdiction, being proceedings in or in consequence of which he was convicted or his sentence was passed, or
- (b) applies to the High Court for leave to make such an application,

the High Court may, if it thinks fit, suspend the disqualification.

(6) Any power of a court under the preceding provisions of this Article to suspend the disqualification of any person is a power to do so on such terms as the court thinks fit.

(7) Where, by virtue of this Article, a court suspends the disqualification of any person, it must send notice of the suspension to the Department.

(8) The notice must be sent in such manner and to such address and must contain such particulars as the Department may determine.

Suspension of disqualification pending determination of applications under Article 37

46.—(1) Where a person makes an application to a court under Article 37, the court may suspend the disqualification to which the application relates pending the determination of the application.

(2) Where a court exercises its power under paragraph (1) it must send notice of the suspension to the Department.

(3) The notice must be sent in such manner and to such address, and must contain such particulars, as the Department may determine.

Removal of disqualification

47.—(1) Subject to the provisions of this Article, a person who by an order of a court is disqualified may apply to the court by which the order was made to remove the disqualification.

(2) On any such application the court may, as it thinks proper having regard to—

- (a) the character of the person disqualified and his conduct subsequent to the order,
- (b) the nature of the offence, and
- (c) any other circumstances of the case,

either by order remove the disqualification as from such date as may be specified in the order or refuse the application.

(3) No application shall be made under paragraph (1) for the removal of a disqualification before the expiration of whichever is relevant of the following periods from the date of the order by which the disqualification was imposed, that is—

- (a) 2 years, if the disqualification is for less than 4 years,
- (b) one half of the period of disqualification, if it is for less than 10 years but not less than 4 years,
- (c) 5 years in any other case;

and in determining the expiration of the period after which under this paragraph a person may apply for the removal of a disqualification, any time after the conviction during which the disqualification was suspended or he was not disqualified shall be disregarded.

(4) Where an application under paragraph (1) is refused, a further application under that paragraph shall not be entertained if made within 3 months after the date of the refusal.

(5) An application under paragraph (1) shall not be heard except after notice, setting forth the grounds of the application, has been given to the superintendent or chief superintendent of the Royal Ulster Constabulary acting for the division for which the convicting court acts.

(6) If under this Article a court orders a disqualification to be removed, the court—

- (a) must cause particulars of the order to be endorsed on the counterpart of the licence, if any, previously held by the applicant, and
- (b) may in any case order the applicant to pay the whole or any part of the costs of the application.

(7) Paragraph (6)(a) shall apply only where the disqualification was imposed in respect of an offence involving obligatory endorsement; and in any other case the court must send notice of the order made under this Article to the Department.

(8) A notice under paragraph (7) must be sent in such manner and to such address, and must contain such particulars, as the Department may determine.

(9) The preceding provisions of this Article shall not apply where the disqualification was imposed by order under Article 41(1).

Rule for determining end of period of disqualification

48. In determining the expiration of the period for which a person is disqualified by an order of a court made in consequence of a conviction, any time after the conviction during which the disqualification was suspended or he was not disqualified shall be disregarded.

*Endorsement***Endorsement of licences**

49.—(1) Where a person is convicted of an offence involving obligatory endorsement, the court must order there to be endorsed on the counterpart of any licence held by him particulars of the conviction and also—

- (a) if the court orders him to be disqualified, particulars of the disqualification, or
- (b) if the court does not order him to be disqualified—
 - (i) particulars of the offence, including the date when it was committed, and
 - (ii) the penalty points to be attributed to the offence.

(2) Where the court does not order the person convicted to be disqualified, it need not make an order under paragraph (1) if for special reasons it thinks fit not to do so.

(3) This Article is subject to Article 53.

Effect of endorsement

50.—(1) An order that any particulars or penalty points are to be endorsed on the counterpart of any licence held by the person convicted shall, whether he is at the time the holder of a licence or not, operate as an order that the counterpart of any licence he may then hold or may subsequently obtain is to be so endorsed until he becomes entitled under paragraph (3) to have a licence issued to him with its counterpart free from the particulars or penalty points.

(2) On the issue of a new licence to a person, any particulars or penalty points ordered to be endorsed on the counterpart of any licence held by him shall be entered on the counterpart of the licence unless he has become entitled under paragraph (3) to have a licence issued to him with its counterpart free from those particulars or penalty points.

(3) A person the counterpart of whose licence has been ordered to be endorsed is entitled to have issued to him with effect from the end of the period for which the endorsement remains effective a new licence with a counterpart free from the endorsement if he applies for a new licence in pursuance of Article 13(1) of the Order of 1981, surrenders any subsisting licence and its counterpart, pays the fee prescribed by regulations under Part II of that Order and satisfies the other requirements of Article 13(1) of that Order.

(4) An endorsement ordered on a person's conviction of an offence remains effective (subject to paragraphs (5) and (6))—

- (a) if an order is made for the disqualification of the offender, until 4 years have elapsed since the conviction, and
- (b) if no such order is made, until either—
 - (i) 4 years have elapsed since the commission of the offence, or
 - (ii) an order is made for the disqualification of the offender under Article 40.

(5) Where the offence was one under Article 9 or 10 of the Order of 1995 (causing death, or grievous bodily injury, by dangerous driving and dangerous driving), the endorsement remains in any case effective until 4 years have elapsed since the conviction.

(6) Where the offence was one—

- (a) under Article 14, 15(1) or 16(1)(a) of that Order (driving offences connected with drink or drugs), or
- (b) under Article 18(7) of that Order (failing to provide specimen) involving obligatory disqualification,

the endorsement remains effective until 11 years have elapsed since the conviction.

General

Combination of disqualification and endorsement with probation orders and orders for discharge

51.—(1) Notwithstanding anything in section 8(2) of the Probation Act (Northern Ireland) 1950 (conviction of offender placed on probation or discharged to be disregarded for the purposes of enactments relating to disqualification), a court which on convicting a person of an offence involving obligatory or discretionary disqualification makes—

- (a) a probation order, or
- (b) an order discharging him absolutely or conditionally,

may on that occasion also exercise any power conferred, and must also discharge any duty imposed, on the court by Articles 35, 40, 41 or 49.

(2) A conviction—

- (a) in respect of which a court has ordered a person to be disqualified, or
- (b) of which particulars have been endorsed on the counterpart of any licence held by him,

is to be taken into account, notwithstanding anything in section 8(1) of the Probation Act (Northern Ireland) 1950 (conviction of offender placed on probation or discharged to be disregarded for the purpose of subsequent proceedings), in determining his liability to punishment or disqualification for any offence involving obligatory or discretionary disqualification committed subsequently.

Supplementary provisions as to disqualifications endorsements and

52.—(1) In any case where a court exercises its power under Article 35, 40 or 49 not to order any disqualification or endorsement or to order disqualification for a shorter period than would otherwise be required, it must state the grounds for doing so in the order of the court.

(2) Where a court orders the endorsement of the counterpart of any licence held by a person it may, and where a court orders the holder of a licence to be disqualified for a period of 56 days or more it must, send the licence and its counterpart, on their being produced to the court, to the Department; and if the court orders the endorsement but does not send the licence and its counterpart to the Department it must send it notice of the endorsement.

(3) Where on an appeal against an order for the endorsement of a licence or the disqualification of a person the appeal is allowed, the court by which the appeal is allowed must send notice of that fact to the Department.

(4) A notice sent by a court to the Department in pursuance of this Article must be sent in such manner and to such address and contain such particulars as the Department may determine, and a licence and the counterpart of a licence so sent in pursuance of this Article must be sent to such address as the Department may determine.

Exemption from disqualification and endorsement for certain construction and use offences

53.—(1) Where a person is convicted of an offence under Article 54 of the Order of 1995 (using vehicle in dangerous condition etc.) the court must not—

- (a) order him to be disqualified, or
- (b) order any particulars or penalty points to be endorsed on the counterpart of any licence held by him,

if he proves that he did not know, and had no reasonable cause to suspect, that the use of the vehicle involved a danger of injury to any person.

(2) Where a person is convicted of an offence under Article 56 of the Order of 1995 (breach of requirement as to brakes, steering-gear or tyres) the court must not—

- (a) order him to be disqualified, or
- (b) order any particulars or any penalty points to be endorsed on the counterpart of any licence held by him,

if he proves that he did not know, and had no reasonable cause to suspect, that the facts of the case were such that the offence would be committed.

Offender escaping consequences of endorsable offence by deception

54.—(1) This Article applies where in dealing with a person convicted of an offence involving obligatory endorsement a court was deceived regarding any circumstances that were or might have been taken into account in deciding whether or for how long to disqualify him.

(2) If—

- (a) the deception constituted or was due to an offence committed by that person, and
- (b) he is convicted of that offence,

the court by or before which he is convicted shall have the same powers and duties regarding an order for disqualification as had the court which dealt with him for the offence involving obligatory endorsement but must, in dealing with him, take into account any order made on his conviction of the offence involving obligatory endorsement.

PART IV**FIXED PENALTIES***Introductory***Interpretation of this Part**

55.—(1) In this Part—

“authorised person” has the meaning given by Article 60(8);

“driver” except in Article 67 means, in relation to an alleged fixed penalty offence, the person by whom, assuming the offence to have been committed, it was committed;

“proceedings”, except in relation to proceedings for enforcing payment of a sum registered under Article 76, means criminal proceedings.

(2) In this Part—

- (a) references to a notice requesting a hearing in respect of an offence are references to a notice indicating that the person giving the notice wishes to contest liability for the offence or seeks a determination by a court with respect to the appropriate punishment for the offence;
- (b) references to an offence include an alleged offence; and
- (c) references to the person who is or was at any time the registered keeper of a vehicle are references to the person in whose name the vehicle is or was at that time registered under the Vehicle Excise and Registration Act 1994.

Expressions defined in this Part

56. The expressions listed in the left-hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Part listed in the right-hand column in relation to those expressions.

(1) Expression	(2) Relevant provision
Authorised person	Article 60(8)
Conditional offer	Article 80(2)
Fixed penalty	Article 59
Fixed penalty clerk	Articles 74(5) and 80(3)
Fixed penalty notice	Article 58
Fixed penalty offence	Article 57
Notice to owner	Articles 68(2) and 71(4)
Notice requesting a hearing in respect of an offence	Article 55(2)
Offence	Article 55(2)
Official form	Article 73(4)
Owner	Article 73(1)
Period allowed for response to a notice to owner	Article 68(5)
Registered keeper	Article 55(2)
Statutory statement of facts	Part II of Schedule 2
Statutory statement of hiring	Part I of Schedule 2
Statutory statement of ownership	Part I of Schedule 2
Suspended enforcement period	Article 58(3)(a)
Time of the alleged offence	Article 68(3)

Fixed penalty offences

57.—(1) Subject to paragraph (3), for the purposes of this Part a “fixed penalty offence” is an offence specified in an order made under paragraph (2).

(2) The Department may by order specify as a fixed penalty offence for the purposes of this Part, any offence committed in respect of a vehicle, being an offence created under a statutory provision and punishable on summary conviction.

(3) Notwithstanding that an offence is specified by order under paragraph (2), it shall not be a fixed penalty offence for the purposes of this Part if it is committed—

- (a) by causing or permitting a vehicle to be used by another person in contravention of any provision made or restriction or prohibition imposed by or under any statutory provision, or
- (b) by the holder of a temporarily restricted licence during a period of restriction and a court on convicting him of the offence would be obliged to order, by virtue of Article 19A(6) of the Order of 1981, that the period of restriction be extended for a further period.

Fixed penalty notices

58.—(1) In this Part “fixed penalty notice” means a notice offering the opportunity of the discharge of any liability to conviction of the offence to which the notice relates by payment of a fixed penalty in accordance with this Part.

(2) A fixed penalty notice must give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.

(3) A fixed penalty notice must state—

- (a) the period during which, by virtue of Article 83(1), proceedings cannot be brought against any person for the offence to which the notice relates, being the period of 21 days following the date of the notice or such longer period (if any) as may be specified in the notice (referred to in this Part as the “suspended enforcement period”),
- (b) the amount of the fixed penalty, and
- (c) the clerk of petty sessions to whom and the address at which the fixed penalty may be paid.

Amount of fixed penalty

59. The fixed penalty for an offence is—

- (a) such amount as the Department may by order prescribe, or
- (b) one-half of the maximum amount of the fine to which a person committing that offence would be liable on summary conviction,

whichever is the less.

Giving notices to suspected offenders

Notices on-the-spot or at a police station

60.—(1) This Article applies where on any occasion a constable in uniform has reason to believe that a person he finds is committing or has on that occasion committed a fixed penalty offence.

(2) Subject to paragraph (3), the constable may give him a fixed penalty notice in respect of the offence.

(3) Where the offence appears to the constable to involve obligatory endorsement, the constable may only give him a fixed penalty notice under paragraph (2) in respect of the offence if—

- (a) he produces his licence and its counterpart for inspection by the constable,

(b) the constable is satisfied, on inspecting the licence and its counterpart, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence, and

(c) he surrenders his licence and its counterpart to the constable to be retained and dealt with in accordance with this Part.

(4) Where—

(a) the offence appears to the constable to involve obligatory endorsement, and

(b) the person concerned does not produce his licence and its counterpart for inspection by the constable,

the constable may give him a notice stating that if, within 7 days after the notice is given, he produces the notice together with his licence and its counterpart in person to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned) and the requirements of paragraph (5)(a) and (b) are met he will then be given a fixed penalty notice in respect of the offence.

(5) If a person to whom a notice has been given under paragraph (4) produces the notice together with his licence and its counterpart in person to a constable or authorised person at the police station specified in the notice within 7 days after the notice was so given to him and the following requirements are met, that is—

(a) the constable or authorised person is satisfied, on inspecting the licence and its counterpart, that he would not be liable to be disqualified under Article 40 if he were convicted of the offence, and

(b) he surrenders his licence and its counterpart to the constable or authorised person to be retained and dealt with in accordance with this Part,

the constable or authorised person must give him a fixed penalty notice in respect of the offence to which the notice under paragraph (4) relates.

(6) A notice under paragraph (4) shall give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence.

(7) A licence and a counterpart of a licence surrendered in accordance with this Article must be sent to the fixed penalty clerk.

(8) In this Part “authorised person”, in relation to a fixed penalty notice given at a police station, means a person authorised for the purposes of this Article by or on behalf of the Chief Constable.

(9) In determining for the purposes of paragraphs (3)(b) and (5)(a) whether a person convicted of an offence would be liable to disqualification under Article 40, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I or Part II of Schedule 1, that the number of penalty points to be attributed to the offence would be the lowest in the range.

Effect of fixed penalty notice given under Article 60

61.—(1) This Article applies where a fixed penalty notice relating to an offence has been given to any person under Article 60, and references in this Article to the recipient are to the person to whom the notice was given.

(2) No proceedings shall be brought against the recipient for the offence to which the fixed penalty notice relates unless before the end of the suspended enforcement period he has given notice requesting a hearing in respect of that offence in the manner specified in the fixed penalty notice.

(3) Where—

(a) the recipient has not given notice requesting a hearing in respect of the offence to which the fixed penalty notice relates in the manner so specified, and

- (b) the fixed penalty has not been paid in accordance with this Part before the end of the suspended enforcement period,

a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under Article 76 for enforcement against the recipient as a fine.

Licence receipts

62.—(1) A constable or authorised person to whom a person surrenders his licence and its counterpart on receiving a fixed penalty notice given to him under Article 60 must issue a receipt for the licence and its counterpart under this Article.

(2) The fixed penalty clerk may, on the application of a person who has surrendered his licence and its counterpart in those circumstances, issue a new receipt for them.

(3) A receipt issued under this Article ceases to have effect—

- (a) if issued by a constable or authorised person, on the expiration of the period of one month beginning with the date of issue or such longer period as may be prescribed, and

- (b) if issued by the fixed penalty clerk, on such date as he may specify in the receipt,

or, if earlier, on the return of the licence and its counterpart to the licence holder.

Endorsement of licences without hearings

63.—(1) Subject to paragraph (2), where a person (referred to in this Article as “the licence holder”) has surrendered his licence and its counterpart to a constable or authorised person on the occasion when he was given a fixed penalty notice under Article 60, the counterpart of his licence may be endorsed in accordance with this Article without any order of a court.

(2) The counterpart of a person’s licence may not be endorsed under this Article if at the end of the suspended enforcement period—

- (a) he has given notice, in the manner specified in the fixed penalty notice, requesting a hearing in respect of the offence to which the fixed penalty notice relates, and

- (b) the fixed penalty has not been paid in accordance with this Part.

(3) On the payment of the fixed penalty before the end of the suspended enforcement period, the fixed penalty clerk must endorse the relevant particulars on the counterpart of the licence and return it together with the licence to the licence holder.

(4) Where any sum determined by reference to the fixed penalty is registered under Article 76 for enforcement against the licence holder as a fine, the fixed penalty clerk must, on the registration of that sum, endorse the relevant particulars on the counterpart of the licence and return it together with the licence to the licence holder.

(5) References in this Article to the relevant particulars are to—

- (a) particulars of the offence, including the date when it was committed, and

- (b) the number of penalty points to be attributed to the offence.

(6) On endorsing the counterpart of a person’s licence under this Article the fixed penalty clerk must send notice of the endorsement and of the particulars endorsed to the Department.

Effect of endorsement without hearing

64.—(1) Where the counterpart of a person’s licence is endorsed under Article 63 he shall be treated for the purposes of Articles 16(4), 30, 31 and 50 of this Order and of the Rehabilitation of Offenders (Northern Ireland) Order 1978 as if—

- (a) he had been convicted of the offence,

- (b) the endorsement had been made in pursuance of an order made on his conviction by a court under Article 49, and
 - (c) the particulars of the offence endorsed by virtue of Article 63(5)(a) were particulars of his conviction of that offence.
- (2) In relation to any endorsement of the counterpart of a person's licence under Article 63—
- (a) the reference in Article 50(3) to the order for endorsement, and
 - (b) the references in Article 16(4) to any order made on a person's conviction,
- are to be read as a reference to the endorsement itself.

Notification of court and date of trial

65.—(1) On an occasion when a person is given a fixed penalty notice under Article 60 in respect of an offence, he may be given written notification specifying the court of summary jurisdiction by which and the date on which the offence will be tried if he gives notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice.

- (2) Subject to paragraphs (4) and (5), where—
- (a) a person has been notified in accordance with this Article of the court and date of trial of an offence in respect of which he has been given a fixed penalty notice, and
 - (b) he has given notice requesting a hearing in respect of the offence as permitted by the fixed penalty notice,

the provisions of the Magistrates' Courts (Northern Ireland) Order 1981 shall apply as mentioned in paragraph (3).

(3) Those provisions are to have effect for the purpose of any proceedings in respect of that offence as if—

- (a) the allegation in the fixed penalty notice with respect to that offence were a complaint duly made in accordance with Article 20 of that Order, and
- (b) the notification of the court and date of trial were a summons duly issued on that complaint by a justice of the peace of the county court division in which the court of summary jurisdiction notified as the court of trial is situated, requiring the person notified to appear before that court to answer to that complaint and duly served on him on the date on which the notification was given.

(4) If, in a case within paragraph (2), notice is served by or on behalf of the Chief Constable on the person who gave notice requesting a hearing stating that no proceedings are to be brought in respect of the offence concerned, that paragraph does not apply and no such proceedings are to be brought against the person who gave notice requesting a hearing.

(5) Article 25A of that Order (proceedings invalid where accused did not know of them) is not applied by paragraph (2) in a case where a person has been notified in accordance with this Article of the court and date of trial of an offence.

Fixed penalty notice mistakenly given: exclusion of fixed penalty procedures

66.—(1) This Article applies where, on inspection of a licence and its counterpart sent to him under Article 60(7), it appears to the fixed penalty clerk that the person whose licence it is would be liable to be disqualified under Article 40 if he were convicted of the offence in respect of which the fixed penalty notice was given.

(2) The fixed penalty clerk must not endorse the counterpart of the licence under Article 63 but must instead send it together with the licence to the Chief Constable.

(3) Nothing in this Part prevents proceedings being brought in respect of the offence in respect of which the fixed penalty notice was given where those proceedings are commenced before the end of the period of 6 months beginning with the date on which that notice was given.

(4) Where proceedings in respect of that offence are commenced before the end of that period, the case is from then on to be treated in all respects as if no fixed penalty notice had been given in respect of the offence.

(5) Accordingly, where proceedings in respect of that offence are so commenced, any action taken in pursuance of any provision of this Part by reference to that fixed penalty notice shall be void (including, but without prejudice to the generality of the preceding provision—

- (a) the registration under Article 76 of any sum, determined by reference to the fixed penalty for that offence, for enforcement against the person whose licence it is as a fine, and
- (b) any proceedings for enforcing payment of any such sum within the meaning of Articles 78 and 79 (defined in Article 79(5)).

(6) In determining for the purposes of paragraph (1) whether a person convicted of an offence would be liable to disqualification under Article 40, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I or Part II of Schedule 1, that the number of penalty points to be attributed to the offence would be the lowest in the range.

Notices fixed to vehicles

Fixing notices to vehicles

67.—(1) Where on any occasion a constable has reason to believe in the case of any stationary vehicle that a fixed penalty offence is being or has on that occasion been committed in respect of it, he may fix a fixed penalty notice in respect of the offence to the vehicle unless the offence appears to him to involve obligatory endorsement.

(2) A person is guilty of an offence if he removes or interferes with any notice fixed to a vehicle under this Article, unless he does so by or under the authority of the driver or person in charge of the vehicle or the person liable for the fixed penalty offence in question.

Service of notice to owner if penalty not paid

68.—(1) This Article applies where a fixed penalty notice relating to an offence has been fixed to a vehicle under Article 67.

(2) Subject to paragraph (3), if at the end of the suspended enforcement period the fixed penalty has not been paid in accordance with this Part, a notice under this Article may be served by or on behalf of the Chief Constable on any person who appears to him (or to any person authorised to act on his behalf for the purposes of this Article) to be the owner of the vehicle.

Such a notice is referred to in this Part as a “notice to owner”.

(3) Paragraph (2) does not apply where before the end of the suspended enforcement period—

- (a) any person has given notice requesting a hearing in respect of the offence in the manner specified in the fixed penalty notice, and
- (b) the notice so given contains a statement by that person to the effect that he was the driver of the vehicle at the time when the offence is alleged to have been committed.

That time is referred to in this Part as the “time of the alleged offence”.

(4) A notice to owner—

- (a) must give particulars of the alleged offence and of the fixed penalty concerned,
- (b) must state the period allowed for response to the notice, and

- (c) must indicate that, if the fixed penalty is not paid before the end of that period, the person on whom the notice is served is asked to provide before the end of that period to the Chief Constable a statutory statement of ownership (as defined in Part I of Schedule 2).
- (5) For the purposes of this Part, the period allowed for response to a notice to owner is the period of 21 days from the date on which the notice is served, or such longer period (if any) as may be specified in the notice.
- (6) A notice to owner relating to any offence must indicate that the person on whom it is served may, before the end of the period allowed for response to the notice, either—
 - (a) give notice requesting a hearing in respect of the offence in the manner indicated by the notice, or
 - (b) if—
 - (i) he was not the driver of the vehicle at the time of the alleged offence, and
 - (ii) a person purporting to be the driver wishes to give notice requesting a hearing in respect of the offence,provide, together with a statutory statement of ownership provided as requested in that notice, a statutory statement of facts (as defined by Part II of Schedule 2) having the effect referred to in paragraph 3(2) of that Schedule (that is, as a notice requesting a hearing in respect of the offence given by the driver).
- (7) In any case where a person on whom a notice to owner relating to any offence has been served provides a statutory statement of facts in pursuance of paragraph (6)(b)—
 - (a) any notice requesting a hearing in respect of the offence that he purports to give on his own account shall be of no effect, and
 - (b) no sum may be registered for enforcement against him as a fine in respect of the offence unless, within the period of 2 months immediately following the period allowed for response to the notice to owner, no summons in respect of the offence in question is served on the person identified in the statement as the driver.

Enforcement or proceedings against owner

- 69.**—(1) This Article applies where—
- (a) a fixed penalty notice relating to an offence has been fixed to a vehicle under Article 67,
 - (b) a notice to owner relating to the offence has been served on any person under Article 68(2) before the end of the period of 6 months beginning with the day on which the fixed penalty notice was fixed to the vehicle, and
 - (c) the fixed penalty has not been paid in accordance with this Part before the end of the period allowed for response to the notice to owner.
- (2) Subject to paragraph (4) and to Article 68(7)(b), a sum equal to the fixed penalty plus one-half of the amount of that penalty may be registered under Article 76 for enforcement against the person on whom the notice to owner was served as a fine.
- (3) Subject to paragraph (4) and to Article 70, proceedings may be brought in respect of the offence against the person on whom the notice to owner was served.
- (4) If the person on whom the notice to owner was served—
- (a) was not the owner of the vehicle at the time of the alleged offence, and
 - (b) provides a statutory statement of ownership to that effect in response to the notice before the end of the period allowed for response to the notice,

he shall not be liable in respect of the offence by virtue of this Article nor shall any sum determined by reference to the fixed penalty for the offence be so registered by virtue of this Article for enforcement against him as a fine.

(5) Subject to paragraph (6)—

(a) for the purposes of the institution of proceedings by virtue of paragraph (3) against any person on whom a notice to owner has been served, and

(b) in any proceedings brought by virtue of that paragraph against any such person,

it shall be conclusively presumed (notwithstanding that that person may not be an individual) that he was the driver of the vehicle at the time of the alleged offence and, accordingly, that acts or omissions of the driver of the vehicle at that time were his acts or omissions.

(6) That presumption does not apply in any proceedings brought against any person by virtue of paragraph (3) if, in those proceedings, it is proved that at the time of the alleged offence the vehicle was in the possession of some other person without the consent of the accused.

(7) Where—

(a) by virtue of paragraph (3) proceedings may be brought in respect of an offence against a person on whom a notice to owner was served, and

(b) Article 79(1) does not apply,

Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (complaint must be made within 6 months of time offence committed) shall have effect as if for the reference to 6 months there were substituted a reference to 12 months.

Restrictions on proceedings against owner and others

70.—(1) In any case where a notice to owner relating to an offence may be served under Article 68, no proceedings shall be brought in respect of the offence against any person other than a person on whom such a notice has been served unless he is identified as the driver of the vehicle at the time of the alleged offence in a statutory statement of facts provided in pursuance of Article 68(6)(b) by a person on whom such a notice has been served.

(2) Proceedings in respect of an offence to which a notice to owner relates shall not be brought against the person on whom the notice was served unless, before the end of the period allowed for response to the notice, he has given notice, in the manner indicated by the notice to owner, requesting a hearing in respect of the offence.

(3) Proceedings in respect of an offence to which a notice to owner relates may not be brought against any person identified as the driver of the vehicle in a statutory statement of facts provided in response to the notice if the fixed penalty is paid in accordance with this Part before the end of the period allowed for response to the notice.

(4) Once any sum determined by reference to the fixed penalty for an offence has been registered, by virtue of Article 69, under Article 76 for enforcement as a fine against a person on whom a notice to owner relating to that offence has been served, no proceedings shall be brought against any other person in respect of that offence.

Hired vehicles

71.—(1) This Article applies where—

(a) a notice to owner has been served on a vehicle-hire firm,

(b) at the time of the alleged offence the vehicle in respect of which the notice was served was let to another person by the vehicle-hire firm under a hiring agreement to which this Article applies, and

(c) within the period allowed for response to the notice the firm provides the Chief Constable with the documents mentioned in paragraph (2).

(2) Those documents are a statement on an official form, signed by or on behalf of the firm, stating that at the time of the alleged offence the vehicle concerned was hired under a hiring agreement to which this Article applies, together with—

(a) a copy of that hiring agreement, and

(b) a copy of a statement of liability signed by the hirer under that hiring agreement.

(3) In this Article a “statement of liability” means a statement made by the hirer under a hiring agreement to which this Article applies to the effect that the hirer acknowledges that he will be liable, as the owner of the vehicle, in respect of any fixed penalty offence which may be committed with respect to the vehicle during the currency of the hiring agreement and giving such information as may be prescribed.

(4) In any case where this Article applies, Articles 68, 69 and 70 shall have effect as if—

(a) any reference to the owner of the vehicle were a reference to the hirer under the hiring agreement, and

(b) any reference to a statutory statement of ownership were a reference to a statutory statement of hiring,

and accordingly references in this Part (with the exceptions mentioned below) to a notice to owner include references to a notice served under Article 68 as it applies by virtue of this Article.

This paragraph does not apply to references to a notice to owner in this Article or in Article 86(2) (b) or in Part I of Schedule 2.

(5) In any case where this Article applies, a person authorised in that behalf by the Chief Constable may, at any reasonable time within 6 months after service of the notice to owner (and on the production of his authority) require the firm to produce the originals of the hiring agreement and statement of liability in question.

(6) If a vehicle-hire firm fails to produce the original of a document when required to do so under paragraph (5), this Article shall thereupon cease to apply (and Article 69 shall apply accordingly in any such case after that time as it applies in a case where the person on whom the notice to owner was served has failed to provide a statutory statement of ownership in response to the notice within the period allowed).

(7) This Article applies to a hiring agreement under the terms of which the vehicle concerned is let to the hirer for a fixed period of less than 6 months (whether or not that period is capable of extension by agreement between the parties or otherwise); and any reference in this Article to the currency of the hiring agreement includes a reference to any period during which, with the consent of the vehicle-hire firm, the hirer continues in possession of the vehicle as hirer, after the expiry of the fixed period specified in the agreement, but otherwise on the terms and conditions so specified.

(8) In this Article—

“hiring agreement” refers only to an agreement which contains such particulars as may be prescribed and does not include a hire-purchase agreement within the meaning of the Consumer Credit Act 1974,

“vehicle-hire firm” means any person engaged in hiring vehicles in the course of a business.

False statements in response to notices to owner

72. A person who, in response to a notice to owner, provides a statement which is false in a material particular and does so recklessly or knowing it to be false in that particular is guilty of an offence.

“Owner”, “statutory statement” and “official form”

73.—(1) For the purposes of this Part, the owner of a vehicle shall be taken to be the person by whom the vehicle is kept; and for the purposes of determining, in the course of any proceedings brought by virtue of Article 69(3), who was the owner of a vehicle at any time, it shall be presumed that the owner was the person who was the registered keeper of the vehicle at that time.

(2) Notwithstanding the presumption in paragraph (1), it is open to the defence in any proceedings to prove that the person who was the registered keeper of a vehicle at a particular time was not the person by whom the vehicle was kept at that time and to the prosecution to prove that the vehicle was kept by some other person at that time.

(3) References in this Part to statutory statements of any description are references to the statutory statement of that description defined in Schedule 2; and that Schedule shall also have effect for the purpose of requiring certain information to be provided in official forms for the statutory statements so defined to assist persons in completing those forms and generally in determining what action to take in response to a notice to owner.

(4) In this Part “official form”, in relation to a statutory statement mentioned in Schedule 2 or a statement under Article 71(2), means a document supplied by or on behalf of the Chief Constable for use in making that statement.

*The fixed penalty procedure***Payment of penalty**

74.—(1) Payment of a fixed penalty under this Part must be made to such clerk of petty sessions as may be specified in the fixed penalty notice relating to that penalty.

(2) Without prejudice to payment by any other method, payment of a fixed penalty under this Part may be made by properly addressing, pre-paying and posting a letter containing the fixed penalty notice and the amount of the penalty and, unless the contrary is proved, shall be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(3) A letter is properly addressed for the purposes of paragraph (2) if it is addressed to the fixed penalty clerk at the address specified in the fixed penalty notice relating to the fixed penalty as the address at which the fixed penalty may be paid.

(4) Sums paid by way of a fixed penalty for an offence shall be treated as if they were fines imposed on summary conviction of that offence.

(5) References in this Part (except in Articles 80 to 82), in relation to any fixed penalty or fixed penalty notice, to the fixed penalty clerk are references to the clerk specified in accordance with paragraph (1) in the fixed penalty notice relating to that penalty or (as the case may be) in that fixed penalty notice.

Registration certificates

75.—(1) This Article and Article 76 apply where by virtue of Article 61(3) or 69(2) a sum determined by reference to the fixed penalty for any offence may be registered under Article 76 for enforcement against any person as a fine.

In this Article and Article 76—

- (a) that sum is referred to as a “sum payable in default”, and
- (b) the person against whom that sum may be so registered is referred to as the “defaulter”.

(2) Subject to paragraph (3), the Chief Constable, or a person authorised by him to act in that behalf, may in respect of any sum payable in default issue a certificate (referred to in this Article

and Article 76 as a “registration certificate”) stating that the sum is registrable under Article 76 for enforcement against the defaulter as a fine.

(3) Where the Chief Constable, or a person authorised by him to act in that behalf, issues a registration certificate under this Article, he must cause it to be sent to the clerk of petty sessions for such petty sessions district as the Lord Chancellor may direct.

(4) A registration certificate issued under this Article in respect of any sum payable in default must—

- (a) give particulars of the offence to which the fixed penalty notice relates,
- (b) indicate whether registration is authorised under Article 61(3) or 69(2), and
- (c) state the name and last known address of the defaulter and the amount of the sum payable in default.

Registration of sums payable in default

76.—(1) Where the clerk of petty sessions receives a registration certificate issued under Article 75 in respect of any sum payable in default, he must register that sum for enforcement as a fine by entering it in the Order Book of a court of summary jurisdiction.

(2) On registering any sum under this Article for enforcement as a fine, the clerk of petty sessions must give to the defaulter notice of registration—

- (a) specifying the amount of that sum and requiring payment of it by such date, not less than 21 days from the date of registration, as may be specified in the notice; and
- (b) giving the information with respect to the offence and the authority for registration included in the registration certificate by virtue of Article 75(4)(a) and (b).

(3) On the registration of any sum in the Order Book of a court of summary jurisdiction by virtue of this Article, any statutory provision referring (in whatever terms) to a fine imposed or a sum adjudged to be paid by a conviction of such a court shall, subject to regulations made under paragraph (4), have effect in the case in question as if the sum so registered were a fine imposed by that court on the conviction of the defaulter on the date of the registration.

(4) The Lord Chancellor may make such regulations with respect to the enforcement of payment of sums registered under this Article as he considers appropriate.

(5) Regulations under paragraph (4) may, in particular,—

- (a) modify the provisions of the Magistrates' Courts (Northern Ireland) Order 1981 relating to the satisfaction and enforcement of sums adjudged to be paid by a conviction, as they have effect by virtue of paragraph (3) in relation to sums registered under this Article; and
- (b) make such incidental, supplemental or consequential provision (including provision to modify a statutory provision) as appears to the Lord Chancellor to be expedient.

(6) In paragraph (5) “modify” includes the making of additions, omissions, exceptions and amendments.

Notices on-the-spot or at a police station: when registration and endorsement invalid

77.—(1) This Article applies where—

- (a) a person who has received notice of the registration, by virtue of Article 61(3), of a sum under Article 76 for enforcement against him as a fine makes a statutory declaration to the effect mentioned in paragraph (2), and
- (b) that declaration is, within 21 days of the date on which the person making it received notice of the registration, served on the clerk of petty sessions.

- (2) The statutory declaration must state—
- (a) that the person making the declaration was not the person to whom the relevant fixed penalty notice was given, or
 - (b) that he gave notice requesting a hearing in respect of the alleged offence as permitted by the fixed penalty notice before the end of the suspended enforcement period.
- (3) In any case within paragraph (2)(a), the relevant fixed penalty notice, the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void.
- (4) Where in any case within paragraph (2)(a) the person to whom the relevant fixed penalty notice was given surrendered a licence and its counterpart held by the person making the declaration, any endorsement of that counterpart made under Article 63 in respect of the offence in respect of which that notice was given shall be void.
- (5) In any case within paragraph (2)(b)—
- (a) the registration, any proceedings taken before the declaration was served for enforcing payment of the sum registered, and carry endorsement, in respect of the offence in respect of which the relevant fixed penalty notice was given, made under Article 63 before the declaration was served, shall be void, and
 - (b) the case shall be treated after the declaration is served as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.
- (6) The clerk of petty sessions must—
- (a) cancel an endorsement of the counterpart of a licence under Article 63 that is void by virtue of this Article on production of the licence and its counterpart to him for that purpose, and
 - (b) send notice of the cancellation to the Department.
- (7) References in this Article to the relevant fixed penalty notice are to the fixed penalty notice relating to the fixed penalty concerned.

Notices fixed to vehicles: when registration invalid

- 78.**—(1) This Article applies where—
- (a) a person who has received notice of the registration, by virtue of Article 69(2), of a sum under Article 76 for enforcement against him as a fine makes a statutory declaration to the effect mentioned in paragraph (2), and
 - (b) that declaration is, within 21 days of the date on which the person making it received notice of the registration, served on the clerk of petty sessions.
- (2) The statutory declaration must state either—
- (a) that the person making the declaration did not know of the fixed penalty concerned or of any fixed penalty notice or notice to owner relating to that penalty until he received notice of the registration, or
 - (b) that he was not the owner of the vehicle at the time of the alleged offence of which particulars are given in the relevant notice to owner and that he has a reasonable excuse for failing to comply with that notice, or
 - (c) that he gave notice requesting a hearing in respect of that offence as permitted by the relevant notice to owner before the end of the period allowed for response to that notice.
- (3) In any case within paragraph (2)(a) or (b)—
- (a) the relevant notice to owner,

- (b) the registration, and
- (c) any proceedings taken before the declaration was served for enforcing payment of the sum registered,

shall be void but without prejudice, in a case within paragraph (2)(a), to the service of a further notice to owner under Article 68 on the person making the declaration.

This paragraph applies whether or not the relevant notice to owner was duly served in accordance with that Article on the person making the declaration.

- (4) In any case within paragraph (2)(c)—
 - (a) no proceedings shall be taken, after the statutory declaration is served until the end of the period of 21 days following the date of that declaration, for enforcing payment of the sum registered, and
 - (b) where before the end of that period a notice is served by or on behalf of the Chief Constable on the person making the declaration asking him to provide a new statutory statement of ownership to the Chief Constable before the end of the period of 21 days from the date on which the notice is served, no such proceedings shall be taken until the end of the period allowed for response to that notice.
- (5) Where in any case within paragraph (2)(c)—
 - (a) no notice is served by or on behalf of the Chief Constable in accordance with paragraph (4), or
 - (b) such a notice is so served and the person making the declaration provides a new statutory statement of ownership in accordance with the notice,

then—

- (i) the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void, and
 - (ii) the case shall be treated after the time mentioned in paragraph (6) as if the person making the declaration had given notice requesting a hearing in respect of the alleged offence as stated in the declaration.
- (6) The time referred to in paragraph (5) is—
 - (a) in a case within sub-paragraph (a) of that paragraph, the end of the period of 21 days following the date of the statutory declaration,
 - (b) in a case within sub-paragraph (b) of that paragraph, the time when the statement is provided.
 - (7) In any case where notice is served by or on behalf of the Chief Constable in accordance with paragraph (4), he must cause the clerk of petty sessions to be notified of that fact immediately on service of the notice.
 - (8) References in this Article to the relevant notice to owner are to the notice to owner relating to the fixed penalty concerned.

Provisions supplementary to Articles 77 and 78

79.—(1) In any case within Article 77(2)(b) or 78(2) of this Order, Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (limitation of time) shall have effect as if for the reference to the time when the offence was committed there were substituted a reference to the date of the statutory declaration made for the purposes of Article 77(1) or, as the case may be, 78(1).

(2) Where, on the application of a person who has received notice of the registration of a sum under Article 76 for enforcement against him as a fine, it appears to a court of summary jurisdiction that it was not reasonable to expect him to serve, within 21 days of the date on which he received the

notice, a statutory declaration to the effect mentioned in Article 77(2) or, as the case may be, 78(2), the court may accept service of such a declaration by that person after that period has expired.

(3) A statutory declaration accepted under paragraph (2) shall be taken to have been served as required by Article 77(1) or, as the case may be, Article 78(1).

(4) For the purposes of Articles 77(1) and 78(1), a statutory declaration shall be taken to be duly served on the clerk of petty sessions if it is delivered to him, left at his office, or sent in a registered letter or by the recorded delivery service addressed to him at his office.

(5) In Articles 77, 78 and this Article, references to proceedings for enforcing payment of the sum registered are references to any process issued or other proceedings taken for or in connection with enforcing payment of that sum.

(6) For the purposes of Articles 77, 78 and this Article, a person shall be taken to receive notice of the registration of a sum under Article 76 for enforcement against him as a fine when he receives notice either of the registration as such or of any proceedings for enforcing payment of the sum registered.

(7) Nothing in the provisions of Article 77, 78 or this Article is to be read as prejudicing any rights a person may have apart from those provisions by virtue of the invalidity of any action purportedly taken under this Part which is not in fact authorised by this Part in the circumstances of the case; and, accordingly, references in those provisions to the registration of any sum or to any other action taken under or by virtue of any provision of this Part are not to be read as implying that the registration or action was validly made or taken in accordance with that provision.

Conditional offer of fixed penalty

Issue of conditional offer

80.—(1) Where—

- (a) a constable has reason to believe that a fixed penalty offence has been committed, and
- (b) no fixed penalty notice in respect of the offence has been given under Article 60 or fixed to a vehicle under Article 67,

a notice under this Article may be sent to the alleged offender by or on behalf of the Chief Constable.

(2) A notice under this Article is referred to in this Article and in Articles 81 and 82 as a “conditional offer”.

(3) Where a person issues a conditional offer, he must notify such clerk of petty sessions as may be specified in the conditional offer of its issue and its terms; and that clerk is referred to in this Article and in Articles 81 and 82 as “the fixed penalty clerk”.

(4) A conditional offer must—

- (a) give such particulars of the circumstances alleged to constitute the offence to which it relates as are necessary for giving reasonable information about the alleged offence,
- (b) state the amount of the fixed penalty for that offence, and
- (c) state that proceedings against the alleged offender cannot be commenced in respect of that offence until the end of the period of 28 days following the date on which the conditional offer was issued or such longer period as may be specified in the conditional offer.

(5) A conditional offer must indicate that if the following conditions are fulfilled, that is—

- (a) within the period of 28 days following the date on which the offer was issued, or such longer period as may be specified in the offer, the alleged offender—
 - (i) makes payment of the fixed penalty to the fixed penalty clerk, and

- (ii) where the offence to which the offer relates is an offence involving obligatory endorsement, at the same time delivers his licence and its counterpart to that clerk, and
- (b) where his licence and its counterpart are so delivered, that clerk is satisfied on inspecting them that, if the alleged offender were convicted of the offence, he would not be liable to be disqualified under Article 40,

any liability to conviction of the offence shall be discharged.

(6) For the purposes of the condition set out in paragraph (5)(b), it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I or Part II of Schedule 1, that the number of penalty points to be attributed to the offence would be the lowest in the range.

Effect of offer and payment of penalty

81.—(1) This Article applies where a conditional offer has been sent to a person under Article 80.

(2) No proceedings shall be brought against any person for the offence to which the conditional offer relates until the Chief Constable receives notice in accordance with paragraph (4) or (5).

(3) Where the alleged offender makes payment of the fixed penalty in accordance with the conditional offer, no proceedings shall be brought against him for the offence to which the offer relates.

(4) Where—

- (a) the alleged offender tenders payment in accordance with the conditional offer and delivers his licence and its counterpart to the fixed penalty clerk, but
- (b) it appears to the clerk, on inspecting the licence and counterpart, that the alleged offender would be liable to be disqualified under Article 40 if he were convicted of the offence to which the conditional offer relates,

then paragraph (3) shall not apply and the clerk must return the licence and its counterpart to the alleged offender together with the payment and give notice that he has done so to the Chief Constable.

(5) Where, on the expiry of the period of 28 days following the date on which the conditional offer was made or such longer period as may be specified in the offer, the conditions specified in the offer in accordance with Article 80(5)(a) have not been fulfilled, the fixed penalty clerk must notify the Chief Constable.

(6) In determining for the purposes of paragraph (4)(b) whether a person convicted of an offence would be liable to disqualification under Article 40, it shall be assumed, in the case of an offence in relation to which a range of numbers is shown in the last column of Part I or Part II of Schedule 1, that the number of penalty points to be attributed to the offence would be the lowest in the range.

(7) In any proceedings a certificate that by a date specified in the certificate payment of a fixed penalty was or was not received by the fixed penalty clerk shall, if the certificate purports to be signed by that clerk, be evidence of the facts stated.

Endorsement where penalty paid

82.—(1) Where—

- (a) in pursuance of a conditional offer a person (referred to in this Article as the “licence holder”) makes payment of the fixed penalty to the fixed penalty clerk and delivers his licence and its counterpart to the clerk, and

- (b) the clerk is not required by paragraph (4) of Article 81 to return the licence and its counterpart to him and did not, before the payment was tendered, notify the Chief Constable under paragraph (5) of that Article,
- the clerk must forthwith endorse the relevant particulars on the counterpart of the licence and return it to the licence holder together with the licence.
- (2) Subject to paragraph (3), where a cheque tendered in payment is subsequently dishonoured—
- (a) any endorsement made by the fixed penalty clerk under paragraph (1) remains effective, notwithstanding that the licence holder is still liable to prosecution in respect of the alleged offence to which the endorsement relates, and
- (b) the fixed penalty clerk must, upon the expiry of the period specified in the conditional offer or, if the period has expired, forthwith notify the Chief Constable that no payment has been made.
- (3) When proceedings are brought against a licence holder after a notice has been given in pursuance of paragraph (2)(b), the court—
- (a) must order the removal of the fixed penalty endorsement from the counterpart of the licence, and
- (b) may, on finding the licence holder guilty, make any competent order of endorsement or disqualification and pass any competent sentence.
- (4) The reference in paragraph (1) to the relevant particulars is to—
- (a) particulars of the offence, including the date when it was committed, and
- (b) the number of penalty points to be attributed to the offence.
- (5) The fixed penalty clerk must send notice to the Department—
- (a) of any endorsement under paragraph (1) and of the particulars endorsed, and
- (b) of any order under paragraph (3)(a).
- (6) Where the counterpart of a person's licence is endorsed under this Article he shall be treated for the purposes of Articles 16(4), 30, 31 and 50 of this Order and of the Rehabilitation of Offenders (Northern Ireland) Order 1978 as if—
- (a) he had been convicted of the offence,
- (b) the endorsement had been made in pursuance of an order made on his conviction by a court under Article 49 of this Order, and
- (c) the particulars of the offence endorsed by virtue of paragraph (4)(a) were particulars of his conviction of that offence.
- (7) In relation to any endorsement of the counterpart of a person's licence under this Article—
- (a) the reference in Article 50(3) of this Order to the order for endorsement, and
- (b) the references in Article 16(4) to any order made on a person's conviction,
- are to be read as a reference to the endorsement itself.

Proceedings in fixed penalty cases

General restriction on proceedings

83.—(1) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates until the end of the suspended enforcement period.

(2) Proceedings shall not be brought against any person for the offence to which a fixed penalty notice relates if the fixed penalty is paid in accordance with this Part before the end of the suspended enforcement period.

Statements by constables

84.—(1) In any proceedings a certificate that a copy of a statement by a constable with respect to the alleged offence (referred to in this Article as a “constable’s witness statement”) was included in or given with a fixed penalty notice or a notice under Article 60(3) given to the accused on a date specified in the certificate shall, if the certificate purports to be signed by the constable or authorised person who gave the accused the notice, be evidence of service of a copy of that statement by delivery to the accused on that date.

(2) In any proceedings a certificate that a copy of a constable’s witness statement was included in or served with a notice to owner served on the accused in the manner and on a date specified in the certificate shall, if the certificate purports to be signed by any person employed by the Police Authority for Northern Ireland, be evidence of service in the manner and on the date so specified both of a copy of that statement and of the notice to owner.

(3) Any address specified in any such certificate as is mentioned in paragraph (2) as being the address at which service of the notice to owner was effected shall be taken for the purposes of any proceedings in which the certificate is tendered in evidence to be the accused’s proper address, unless the contrary is proved.

(4) Where a copy of a constable’s witness statement is included in or served with a notice to owner served in any manner in which the notice is authorised to be served under this Part, the statement shall be treated as duly served for the purposes of section 1 of the Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (proof by written statement) notwithstanding that the manner of service is not authorised by subsection (8) of that section.

(5) In relation to any proceedings in which service of a constable’s witness statement is proved by certificate under this Article—

- (a) that service shall be taken for the purposes of subsection (2)(c) of that section (copy of statement to be tendered in evidence to be served before hearing on other parties to the proceedings by or on behalf of the party proposing to tender it) to have been effected by or on behalf of the complainant, and
 - (b) subsection (2)(d) of that section (time for objection) shall have effect with the substitution, for the reference to 7 days from the service of the copy of the statement, of a reference to 7 days from the relevant date.
- (6) In paragraph (5)(b) “relevant date” means—
- (a) where the accused gives notice requesting a hearing in respect of the offence in accordance with any provision of this Part, the date on which he gives that notice, and
 - (b) where a notice in respect of the offence was given to the accused under Article 60(4) but no fixed penalty notice is given in respect of it, the last day for production of the notice under Article 60(5) at a police station in accordance with that Article.

Certificates about payment

85. In any proceedings a certificate—

- (a) that payment of a fixed penalty was or was not received, by a date specified in the certificate, by the fixed penalty clerk, or
- (b) that a letter containing an amount sent by post in payment of a fixed penalty was marked as posted on a date so specified,

shall, if the certificate purports to be signed by the fixed penalty clerk, be evidence of the facts stated.

Documents signed by the accused

86.—(1) Where—

- (a) any person is charged with a fixed penalty offence, and
- (b) the complainant produces to the court a document to which this paragraph applies purporting to have been signed by the accused,

the document shall be presumed, unless the contrary is proved, to have been signed by the accused and shall be evidence in the proceedings of any facts stated in it tending to show that the accused was the owner, the hirer or the driver of the vehicle concerned at a particular time.

(2) Paragraph (1) applies to any document purporting to be—

- (a) a notice requesting a hearing in respect of the offence charged given in accordance with a fixed penalty notice relating to that offence, or
- (b) a statutory statement of any description defined in Schedule 2 or a copy of a statement of liability within the meaning of Article 71 provided in response to a notice to owner.

Miscellaneous

Powers of court where clerk deceived

87.—(1) This Article applies where—

- (a) in endorsing the counterpart of any person's licence under Article 63, the fixed penalty clerk is deceived as to whether endorsement under that Article is excluded by Article 66(2) by virtue of the fact that the licence holder would be liable to be disqualified under Article 40 if he were convicted of the offence; or
- (b) in endorsing the counterpart of any person's licence under Article 82 the fixed penalty clerk is deceived as to whether he is required by Article 81(4) to return the licence and its counterpart without endorsing the counterpart by virtue of the fact that the licence holder would be liable to be disqualified under Article 40 if he were convicted of the offence.

(2) If—

- (a) the deception constituted or was due to an offence committed by the licence holder, and
- (b) the licence holder is convicted of that offence,

the court by or before which he is convicted shall have the same powers and duties as it would have had if he had also been convicted by or before it of the offence of which particulars were endorsed under Article 63 or, as the case may be, Article 82.

Regulations for the purposes of this Part

88.—(1) Except as otherwise provided by paragraph (2), the Department may by regulations make provision as to any matter incidental to the operation of this Part, and in particular—

- (a) for prescribing any information or further information to be provided in any notice, notification, certificate or receipt under Article 58(1), 60(4), 62, 65(1), 68(2), 75(2), 78(4) (b) or 80(1), or in any official form for a statutory statement mentioned in Schedule 2, or a statement under Article 71(2); and
- (b) for requiring any such official form to be served with any notice served under Article 68 or 78(4).

(2) The Lord Chancellor may by regulations prescribe the information to be supplied to the clerk of petty sessions or the fixed penalty clerk in connection with the performance of his duties under this Part.

Service of documents

89. Subject to any requirement of this Part with respect to the manner in which a person may be provided with a document for the purposes of this Part, section 24 of the Interpretation Act (Northern Ireland) 1954 shall apply in relation to the service of such a document as if in subsection (1) of that section the word “registering” were omitted.

Functions of traffic wardens

90.—(1) For the purposes of Article 118 of the Order of 1981, neither the Chief Constable nor an order under paragraph (1) of that Article may authorise the employment of a traffic warden to discharge any function under this Part in respect of an offence if the offence appears to the traffic warden to be an offence involving obligatory endorsement, unless that offence was committed whilst the vehicle concerned was stationary.

(2) In so far as the Chief Constable or an order under that Article authorises the employment of traffic wardens for the purposes of this Part, references in this Part to a constable or, as the case may be, to a constable in uniform include a traffic warden.

Procedure for making regulations and orders under this Part

91.—(1) Before making—

- (a) an order under Article 57 or 59, or
- (b) regulations under Article 88(1),

the Department must consult with such representative organisations as it thinks fit.

(2) Subject to paragraph (3), an order or regulations under any provision of this Part shall be subject to negative resolution.

(3) Regulations made under Article 76(4) or 88(2) shall be subject to annulment in pursuance of a resolution of either House of Parliament and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

PART V

MISCELLANEOUS AND GENERAL

Penalty for breach of regulations

92. If a person acts in contravention of—

- (a) any regulations made by the Department under the Order of 1981 other than regulations made under Article 132 of that Order; or
- (b) any regulations made by the Department under the Order of 1995 other than regulations made under Article 45 or 61 of that Order,

and the contravention is not made an offence under any other provision of the Road Traffic Orders, he shall for each offence be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Application to Crown

93.—(1) Articles 5 to 7, 18, 19, 23 and 54 and the provisions connected with the licensing of drivers apply to vehicles and persons in the public service of the Crown.

(2) To the extent provided by paragraph (1) and Article 94, this Order binds the Crown.

Proceedings in respect of offences committed in connection with Crown vehicles

94.—(1) Where an offence under the Road Traffic Orders is alleged to have been committed in connection with a vehicle in the public service of the Crown, proceedings may be brought in respect of the offence against a person nominated for the purpose on behalf of the Crown.

(2) Subject to paragraph (3), where any such offence is committed any person so nominated shall also be guilty of the offence as well as any person actually responsible for the offence (but without prejudice to proceedings against any person so responsible).

(3) Where any person is convicted of an offence by virtue of this Article—

- (a) no order is to be made on his conviction save an order imposing a fine,
- (b) payment of any fine imposed on him in respect of that offence is not to be enforced against him, and
- (c) apart from the imposition of any such fine, the conviction is to be disregarded for all purposes other than any appeal (whether by way of case stated or otherwise).

Application of certain provisions of Order to trolley vehicles

95.—(1) The Department may by regulations, made subject to negative resolution, provide that such of the provisions mentioned in paragraph (2) as are specified in the regulations shall not apply, or shall apply with modifications, to all trolley vehicles or to trolley vehicles of a specified class.

(2) The provisions referred to in paragraph (1) are Articles 3 to 6, 11, 12, 21, 24, 25, 27 to 31, 33, 35 to 38 and 40 to 53 of this Order.

(3) Regulations under this paragraph—

- (a) may include such transitional provisions as appear to the Department to be necessary or expedient, and
- (b) may make such amendments to any local Act, which regulates the use of trolley vehicles, as appear to the Department to be necessary or expedient in consequence of the regulations or in consequence of the application to any trolley vehicles of any of the provisions mentioned in paragraph (2).

(4) In this Article “trolley vehicle” has the meaning given in Article 2(2) of the Order of 1995.

Transitional provisions and savings

96.—(1) The repeal by this Order of any provision of the Road Traffic Orders does not affect the operation of the repealed provision in relation to offences committed before the coming into operation of this Order or to appeals against or suspension of disqualification by virtue of convictions for offences so committed or against orders made in consequence of such convictions.

(2) A conviction of an offence mentioned in paragraph (3) shall be treated as a conviction of an offence mentioned in sub-paragraphs (a) to (d) of Article 35(3).

(3) The offences are—

- (a) an offence under any of the following provisions of the Order of 1981, namely—
 - (i) Article 143(1);

- (ii) Article 144(1)(a); and
- (iii) Article 146, being an offence arising from his failure to provide a specimen required to ascertain either his ability to drive or the proportion of alcohol in his breath, blood or urine (as the case may be) at the time he was driving or attempting to drive;
as those provisions had effect immediately before their repeal by the Order of 1995;
- (b) an offence under any of the following provisions of the Order of 1981, namely Articles 141, 144, 145 and 147, as those Articles had effect before the coming into operation of Part III of the Road Traffic (Amendment) (Northern Ireland) Order 1991, being an offence committed by or arising out of driving, or attempting to drive, a motor vehicle on a road or other public place.

Minor and consequential amendments and repeals

97.—(1) The statutory provisions mentioned in Schedule 3 shall have effect subject to the minor and consequential amendments there specified.

(2) The statutory provisions mentioned in Schedule 4 are repealed to the extent specified in the third column of that Schedule.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULES

SCHEDULE 1

Articles 3, 4, 9, 13, 30, 34, 60, 66, 80 and 81.

PROSECUTION AND PUNISHMENT OF OFFENCES

PART I

OFFENCES UNDER THE ROAD TRAFFIC ORDERS

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
<i>Offences under the Order of 1981</i>						
Article 3(1)	Driving without a licence.	Summarily.	Level 3 on the standard scale.	Discretionary if committed by driving a motor vehicle in a case where either no licence authorising the driving of that vehicle could have been granted to the offender or, if a provisional (but no other) licence to drive it could have been granted to him, the	Obligatory if committed as described in column 5.	3-6

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
				driving would not have complied with the conditions of the licence.		
Article 3(2)	Causing or permitting a person to drive without a licence.	Summarily.	Level 3 on the standard scale.			
Article 9(10)	Failure to deliver a licence and counterpart revoked by virtue of Article 9(8) to Department.	Summarily.	Level 3 on the standard scale.			
Article 10(3)	Failure to deliver revoked licence and counterpart to Department.	Summarily.	Level 3 on the standard scale.			
Article 11(3)	Failure to notify Department of onset of, or deterioration in, relevant or prospective disability.	Summarily.	Level 3 on the standard scale.			
Article 13	Failure to comply with any conditions prescribed for driving	Summarily.	Level 3 on the standard scale.	Discretionary	Obligatory.	3-6

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
Article 14	under provisional licence. Failure to comply with any conditions prescribed for driving under provisional licence where conditions applicable to driving under full licence.	Summarily.	Level 3 on the standard scale.	Discretionary.	Obligatory.	3-6
Article 15(7)	Driving licence holder failing, when his licence is revoked, to surrender it and its counterpart or, when particulars become incorrect, to surrender the licence and counterpart and give particulars.	Summarily.	Level 3 on the standard scale.			
Article 19	Exceeding speed limit in vehicle required to display or displaying learner- driver's mark.	Summarily.	(i) Where the mark is required to be displayed, level 3 on the	Discretionary if committed as described in column 4(i).	Obligatory if committed as described in column 4(i).	3-6 if committed as described in column 4(i).

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
			standard scale.			
			(ii) Where the mark is not required to be displayed, level 2 on the standard scale.			
Article 19A	Failure to comply with restriction on restricted drivers.	Summarily.	Level 3 on the standard scale.	Discretionary.	Obligatory	3-6
Article 19B	Exceeding speed limit in vehicle displaying restricted driver's mark where mark is not required to be displayed.	Summarily.	Level 2 on the standard scale.			
Article 19E	Failing to produce Great Britain driving licence and counterpart.	Summarily.	Level 3 on the standard scale.			
Article 20	Contravention of rule of road or overtaking incorrectly.	Summarily.	Level 3 on the standard scale.			
Article 21	Contravention of an order controlling movement of, and	Summarily.	Level 3 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
Article 22	waiting by, traffic. Using or causing or permitting a vehicle to be used on a road restricted by order under Article 22 in contravention of the order.	Summarily.	Level 3 on the standard scale.			
Article 31E(1)	Using, etc., motor vehicle or vehicle pa; without required certificate being in force showing that it complies with type approval requirements applicable to it.	Summarily.	Level 4 on the standard scale.			
Article 31E(2)	Using, etc., motor vehicle with alteration required to be but not notified to Department under Article 31 B.	Summarily.	Level 3 on the standard scale.			
Article 31E(5)	Selling, etc., motor vehicle or vehicle part without required	Summarily.	Level 5 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	certificate being in force showing that it complies with type approval requirements applicable to it.					
Article 31F	Failure to hold EC certificate of conformity for unregistered light passenger vehicle.	Summarily.	Level 3 on the standard scale.			
Article 31G	Light passenger vehicles not to be sold without EC certificate of conformity.	Summarily.	Level 5 on the standard scale.			
Article 56	Driving, or causing or permitting the driving of, goods vehicle in excess of prescribed hours.	Summarily.	Level 4 on the standard scale.			
Article 59	Public service vehicle plying for hire where driver not licensed.	Summarily.	Level 3 on the standard scale.			
Article 60	Public service vehicle	Summarily.	Level 4 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	plying for hire when not licensed under Article 61.					
Article 62(2)	Permitting overcrowding on public service vehicle.	Summarily.	Level 2 on the standard scale.			
Article 62(4)	Failure to produce to court licence granted under Article 61.	Summarily.	Level 3 on the standard scale.			
Article 64	Owner of public service vehicle failing to provide alternative transport.	Summarily.	Level 3 on the standard scale.			
Article 66	Contravention of Community provision as to keeping or production of documents.	Summarily.	Level 4 on the standard scale.			
Article 72	Failing to comply with conditions of LGV or PCV licence, or causing or permitting person under 21 to drive LGV or PCV in	Summarily.	Level 3 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	contravention of such conditions.					
Article 75	Failure to deliver revoked or suspended LGV or PCV licence and its counterpart to Department.	Summarily.	Level 3 on the standard scale.			
Article 77(4)	Contravention of provision of regulations (which is declared by regulations to be an offence) about LGV or PCV drivers' licences.	Summarily.	Level 3 on the standard scale.			
Article 79A	Driving without a taxi driver's licence.	Summarily.	Level 3 on the standard scale.	Discretionary if committed by driving a taxi where no licence authorising the driving of that vehicle could have been granted.	Obligatory if committed as described in column 5.	3-6
Article 81(1)	Driving, or causing or permitting the driving of, motor vehicle in contravention of	Summarily.	Level 4 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	applicable Community rules as to periods of driving, etc.					
Article 81(2)	Contravention of requirement of applicable Community rules as to books, records or documents.	Summarily.	Level 4 on the standard scale.			
Article 81(3)	Making, or causing to be made, false entry in book, record or document kept for purposes of applicable Community rules.	Summarily.	Level 4 on the standard scale.			
Article 82	Failure to produce, etc., books, records or documents; obstructing inspector of vehicles.	Summarily.	Level 3 on the standard scale.			
Article 86	Driving, or causing or permitting the driving of, vehicle in contravention of a prohibition under Article 84, or refusing,	Summarily.	Level 5 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	neglecting or otherwise failing to comply with a direction given under Article 84(3).					
Article 90	Driving, or causing or permitting a person to drive, motor vehicle while uninsured.	Summarily.	Level 5 on the standard scale.	Discretionary.	Obligatory.	6-8
Article 95	Failure to surrender certificate on cancellation of insurance policy or security.	Summarily.	Level 3 on the standard scale.			
Article 96	Failure of person against whom claim made to give information as to insurance or security.	Summarily.	Level 4 on the standard scale.			
Article 97	Failure to give information or to produce certificate, or making false reply or false statement as to insurance.	Summarily.	Level 4 on the standard scale.			

*NOTE: If
in any case
the offence
consists
only in
failure to
produce a
certificate
of insurance*

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
Article 105(3A)	Using parking places reserved for disabled persons' vehicles, contrary to bye- laws under Article 105.	Summarily.	<i>or security the punishment is that provided for an offence under Article 180.</i> Level 3 on the standard scale.			
Article 115(1)	Parking, etc., vehicles in parking places on roads where charges made, contrary to bye- laws under Article 107, and otherwise contravening those bye- laws.	Summarily.	In the case of an offence committed through contravention of a bye- law relating to the use of street parking place reserved for disabled persons' vehicles which would not have been an offence if the vehicle in respect of which it was committed had been a disabled person's vehicle, level 3 on			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
			the standard scale.			
			In any other case level 2 on the standard scale.			
Article 115(3)	Interfering, etc., with parking meter.	Summarily.	Level 3 on the standard scale.			
Article 116	Public service vehicle plying for hire, etc., in parking place.	Summarily.	Level 2 on the standard scale.			
Article 123	Failure to carry, cause to be carried or erect warning devices indicating temporary obstructions.	Summarily.	Level 3 on the standard scale.			
Article 124	Failure to provide warning of works.	Summarily.	Level 3 on the standard scale.			
Article 126	Interference with or damage to traffic signs.	Summarily.	Level 3 on the standard scale.			
Article 127	Placing, etc., unauthorised traffic signs, etc.	Summarily.	Level 3 on the standard scale.			
Article 132(3)	Taking, etc., title implying registration	Summarily.	Level 4 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	as driving instructor.					
Article 132(5)	Making of false statement, etc., to obtain registration, etc., as driving instructor.	Summarily.	Level 4 on the standard scale.			
Article 133	Giving of paid driving instruction by unregistered or unlicensed persons or their employers.	Summarily.	Level 4 on the standard scale.			
Article 136	Failure to surrender certificate or licence within 14 days of notice.	Summarily.	Level 3 on the standard scale.			
Article 137	Failure to produce certificate of registration or licence as driving instructor.	Summarily.	Level 3 on the standard scale.			
Article 154(1)	Driving with uncorrected defective eyesight.	Summarily.	Level 3 on the standard scale.	Discretionary.	Obligatory.	3
Article 154(2)	Refusal to submit to test to ascertain whether offence	Summarily.	Level 3 on the standard scale.	Discretionary.	Obligatory.	3

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	committed under Article 154(1).					
Article 155	Exceeding speed limit.	Summarily.	Level 3 on the standard scale.	Discretionary.	Obligatory.	3-6
Article 156	Exceeding temporary or experimental speed limit.	Summarily.	Level 3 on the standard scale.	Discretionary.	Obligatory.	3-6
Article 166(1)(a)	Applying for or obtaining driving licence or provisional licence while disqualified by reason of being under age.	Summarily.	Level 3 on the standard scale.			
Article 166(1)(b)	Applying for or obtaining driving licence or provisional licence while otherwise disqualified.	Summarily.	Level 3 on the standard scale.			
Article 167(1)(a)	Driving motor vehicle while disqualified by reason of being under age.	Summarily.	Level 3 on the standard scale.	Discretionary.	Obligatory.	3-6
Article 167(1)(b)	Driving motor vehicle while	(a) (a) Summarily. (b) On indictment.	(a) Summarily. (b) On indictment.	(a) Discretionary. (b) statutory maximum or	Obligatory.	6

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	otherwise disqualified.			6 months or both. (b) A fine or 1 year or both.		
Article 167(3)	Causing or permitting a person to drive while under age.	Summarily.	Level 3 on the standard scale.			
Article 171(4)	Obstructing or impeding, etc., removal of vehicle under Article 171(2).	Summarily.	Level 3 on the standard scale.			
Article 172	Taking vehicle without owner's consent:— Where vehicle is a cycle. Where vehicle is a vehicle other than a cycle.	Summarily. (a) Summarily (b) On indictment	Level 3 on the standard scale. (a) The maximum or 6 months or both. (b) A fine or 1 year or both.	Discretionary if committed in respect of a vehicle other than a cycle.		
Article 174(1)	Making false or misleading statements, furnishing false or	Summarily	Level 4 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	misleading particulars or withholding material information in connection with applications for licences or certificates under the Order of 1981 or for obtaining certificate of insurance or security or issuing false certificate of insurance or security.					
Article 174(2)	Forgery or fraudulently altering, etc., identification marks, badges, licences, certificates or certificates of insurance, etc.	(a) Summarily. (b) On indictment.	(a) Summary (a) statutory maximum. (b) A fine or 2 years or both.			
Article 174A	Wrongful use of disabled person's badge.	Summarily.	Level 3 on the standard scale.			
Article 175(2)	Failure of driver of mechanically propelled	Summarily.	Level 5 on the standard scale or 6	Discretionary.	Obligatory.	5-10

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	vehicle to comply with duties on occurrence of accident caused by that vehicle.		months or both. <i>NOTE: If in any case the offence consists only in failure to produce a certificate of insurance or security the punishment is that provided for an offence under Article 180.</i>			
Article 175(5)	Failure of owner of mechanically propelled vehicle to comply with duties on occurrence of accident where vehicle driven by person other than owner.	Summarily.	Level 3 on the standard scale.			
Article 176	Failure to comply with duties on occurrence of other accidents.	Summarily.	Level 3 on the standard scale.			
Article 177	Failure of driver or owner of vehicle or other person required to do so,	Summarily.	Level 3 on the standard scale.	Discretionary if committed under Article 177(1)(b) or (c) and	Obligatory if committed as described in column (5).	3

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	to give information for purposes of identification to police.			otherwise than by virtue of section 20(2) of the Interpretation Act (Northern Ireland) 1954.		
Article 178	Failure of cyclist to give information for purposes of identification to police.	Summarily.	Level 3 on the standard scale.			
Article 179	Failure of pedestrian to give information for purposes of identification to police.	Summarily.	Level 1 on the standard scale.			
Article 180	Failing to stop when so required by constable in uniform, failing to produce licence etc. for examination or to state date of birth, failing to provide Department with evidence of date of birth, etc., or	Summarily.	Level 3 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	obstructing etc. police.					
Article 209	Contravention of prohibition or restriction on use of bridge.	Summarily.	Level 3 on the standard scale.			
<i>Offences under the Order of 1995</i>						
Article 9	Causing death, or grievous bodily injury, by dangerous driving.	On indictment.	10 years or a fine or both.	Obligatory.	Obligatory.	3-11
Article 10	Dangerous driving.	(a) (b) On indictment.	(a) Summarily (a) 12 months or the statutory maximum or both. (b) 2 years or a fine or both.	Obligatory.	Obligatory.	3-11
Article 12	Careless, and inconsiderate, driving.	Summarily.	Level 4 on the standard scale.	Discretionary.	Obligatory.	3-9
Article 14	Causing death, or grievous bodily injury, by careless driving	On indictment.	10 years or a fine or both.	Obligatory.	Obligatory.	3-11

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	when under influence of drink or drugs.					
Article 15(1)	Driving or attempting to drive when unfit to drive through drink or drugs.	Summarily.	6 months or level 5 on the standard scale or both.	Obligatory.	Obligatory.	3-11
Article 15(2)	Being in charge of a mechanically propelled vehicle when unfit to drive through drink or drugs.	Summarily.	3 months or level 4 on the standard scale or both.	Discretionary.	Obligatory.	10
Article 16(1)(a)	Driving or attempting to drive with excess alcohol in breath, blood or urine.	Summarily	6 months or level 5 on the standard scale or both.	Obligatory.	Obligatory.	3-11
Article 16(1)(b)	Being in charge of a motor vehicle with excess alcohol in breath, blood or urine.	Summarily.	3 months or level 4 on the standard scale or both.	Discretionary.	Obligatory.	10
Article 17	Failing to provide a specimen of breath for a preliminary breath test.	Summarily	Level 3 on the standard scale.	Discretionary.	Obligatory.	4

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
Article 18	Failing to provide specimen for analysis or laboratory test.	Summarily.	<p>(a) Where the specimen was required to ascertain ability to drive or proportion of alcohol at the time offender was driving or attempting to drive, 6 months or level 5 on the standard scale or both.</p> <p>(b) In any other case, 3 months or level 4 on the standard scale</p>	<p>(a) Obligatory in case mentioned in column 4(a).</p> <p>(b) Discretionary in any other case.</p>	<p>(a) Obligatory in case mentioned in column 4(a).</p> <p>(b) 10 in any other case.</p>	3-11

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification or both.	(6) Endorsement	(7) Penalty points
Article 23	Driving or riding in a motor vehicle in contravention of regulations requiring wearing of seat belts.	Summarily.	Level 2 on the standard scale.			
Article 24(2)	Driving motor vehicle with child in front not wearing seat belt.	Summarily.	Level 2 on the standard scale.			
Article 24(5)	Driving motor vehicle with child in rear not wearing seat belt.	Level 1 on the standard scale.				
Article 26(3) or (4)	Selling, etc., in certain circumstances equipment as conducive to the safety of children in motor vehicles.	Summarily.	Level 3 on the standard scale.			
Article 27	Driving or riding motor cycles in contravention of regulations requiring wearing of protective headgear.	Summarily.	Level 2 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
Article 28	Selling, etc., helmet not of the prescribed type as helmet for affording protection for motor cyclists.	Summarily.	Level 3 on the standard scale.			
Article 29(3)	Contravention of regulations with respect to use of head-worn appliances on motor cycles.	Summarily.	Level 2 on the standard scale.			
Article 29(4)	Selling, etc., appliance not of prescribed type as approved for use on motor cycles.	Summarily.	Level 3 on the standard scale.			
Article 30	Prohibition of parking of heavy commercial vehicles on verges, etc.	Summarily.	Level 3 on the standard scale.			
Article 32	Leaving vehicles in dangerous positions.	Summarily.	Level 3 on the standard scale.	Discretionary if committed in respect of a motor vehicle.	Obligatory if committed in respect of a motor vehicle.	3
Article 33	Causing danger to road-users.	(a) Summarily. (b) On indictment.	(a) Summarily. (b) On indictment.	(a) 6 months or the statutory maximum		

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification or both.	(6) Endorsement	(7) Penalty points
			(b) 7 years or a fine or both.			
Article 34	Carrying passenger on motor bicycle contrary to Article 34.	Summarily.	Level 3 on the standard scale.	Discretionary.	Obligatory.	3
Article 35	Carrying passenger on a bicycle contrary to Article 35.	Summarily.	Level 1 on the standard scale.			
Article 36	Tampering with motor vehicles.	Summarily.	Level 3 on the standard scale.			
Article 37	Holding or getting on to vehicle, etc., in order to be towed or carried.	Summarily.	Level 1 on the standard scale.			
Article 38	Pedestrian endangering own safety or other's safety.	Summarily.	Level 3 on the standard scale.			
Article 39	Passing incorrectly with led horse.	Summarily.	Level 2 on the standard scale.			
Article 40	Drunkness, etc., in charge of horse-drawn vehicle.	Summarily.	Level 3 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
Article 41	Careless, and inconsiderate, driving of horse-drawn vehicle.	Summarily.	Level 3 on the standard scale.			
Article 42	Dangerous cycling.	Summarily.	Level 4 on the standard scale.			
Article 43	Careless, and inconsiderate, cycling.	Summarily.	Level 3 on the standard scale.			
Article 44	Cycling when unfit through drink or drugs.	Summarily.	Level 3 on the standard scale.			
Article 45(1)	Unauthorised or irregular cycle racing or trials of speed on public roads.	Summarily.	Level 1 on the standard scale.			
Article 45(6)	Contravention of direction of Chief Constable.	Summarily.	Level 1 on the standard scale.			
Article 46	Contravening prohibition on persons under 14 driving electrically assisted pedal cycles.	Summarily.	Level 2 on the standard scale.			
Article 47	Unauthorised motor vehicle trial on public paths, etc.	Summarily.	Level 3 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
Article 48	Driving mechanically propelled vehicles elsewhere than on roads.	Summarily.	Level 3 on the standard scale.			
Article 49	Failing to comply with traffic directions or traffic signs.	Summarily.	Level 3 on the standard scale.	Discretionary if committed in respect of a motor vehicle by failure to comply with — (a) a direction of a constable, or (b) an indication given by a traffic sign specified for the purposes of this paragraph in regulations under Article 49(2) of the Order of 1995.	Obligatory if committed as described in column 5.	3
Article 54	Using vehicle in dangerous condition, etc.	Summarily.	(d) Level 5 on the standard scale	(d) Discretionary.	Obligatory.	3

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
Article 56	Breach of requirement as to brakes, steering-gear or tyres.	Summarily.	(a) Level 4	(a) Discretionary.	Obligatory.	3
			(b) Level 5 on the standard scale in any other case.	(b) Level 5 on the standard scale if committed in respect of a goods vehicle or a vehicle adapted to carry more than 8 passengers.		

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
				more than 8 passengers.		
			(b) Level 4 on the standard scale in any other case.			
Article 57	Breach of requirement as to weight: goods and passenger vehicles.	Summarily.	Level 5 on the standard scale.			
Article 58	Breach of other construction and use requirements.	Summarily.	(a) Level 4 on the standard scale if committed in respect of a goods vehicle or a vehicle adapted to carry more than 8 passengers.			
			(b) Level 3			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
Article 63	Using, etc., vehicle without required test certificate being in force.	Summarily.	(d) Level	on the standard scale in any other case.	(a)	4
				on the standard scale in the case of a vehicle adapted to carry more than 8 passengers.		
			(b) Level	3 on the standard scale in any other case.		
Regulations under Article 65 made by virtue of Article 67(2)	Contravention of requirement of regulations (which is declared by regulations to be an offence)	Summarily.	Level 3 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	that driver of goods vehicle being tested be present throughout test or drive, etc., vehicle as and when directed.					
Article 69(1)	Using, etc., goods vehicle without required plating certificate being in force.	Summarily.	Level 3 on the standard scale.			
Article 69(2)	Using, etc., goods vehicle without required goods vehicle test certificate being in force.	Summarily.	Level 4 on the standard scale.			
Article 69(3)	Using, etc., goods vehicle where Department is required by regulations under Article 65 to be notified of an alteration to the vehicle or its equipment but has	Summarily.	Level 3 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	not been notified.					
Article 70	Using goods vehicle with unauthorised weights as well as authorised weights marked on it.	Summarily.	Level 3 on the standard scale.			
Article 71	Driver of goods vehicle allowing unauthorised passengers to be carried in vehicle; unauthorised passengers being carried in goods vehicle.	Summarily.	Level 3 on the standard scale.			
Article 75	Obstructing testing of vehicle by examiner on road or failing to comply with requirements of Article 75.	Summarily.	Level 3 on the standard scale.			
Article 76	Obstructing inspection, etc., of vehicle by examiner or failing to comply with requirement to take vehicle for inspection.	Summarily.	Level 3 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
Article 80	Driving, etc., vehicle in contravention of prohibition on driving it as being unfit for service, or refusing, neglecting or otherwise failing to comply with direction to remove a vehicle found overloaded.	Summarily.	Level 5 on the standard scale.			
Article 82	Contravention of regulations requiring goods vehicle operator to inspect, and keep records of inspection of, goods vehicles.	Summarily.	Level 3 on the standard scale.			
Article 83	Selling, etc., unroadworthy vehicle or trailer or altering vehicle or trailer so as to make it unroadworthy.	Summarily.	Level 5 on the standard scale.			
Article 84(1)	Fitting of defective or unsuitable vehicle parts.	Summarily.	Level 5 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
Article 84(3)	Supplying defective or unsuitable vehicle parts.	Summarily.	Level 4 on the standard scale.			
Article 84(8)	Obstructing examiner testing vehicles to ascertain whether defective or unsuitable part has been fitted, etc.	Summarily.	Level 3 on the standard scale.			
Article 85	Obstructing examiner testing condition of used vehicles at sale rooms, etc.	Summarily.	Level 3 on the standard scale.			
Article 86	Failing to comply with requirement about weighing motor vehicle or obstructing authorised person.	Summarily.	Level 5 on the standard scale.			
Article 88	Selling, etc., cycle in contravention of regulations as to brakes, bells, etc.	Summarily.	Level 3 on the standard scale.			
Article 90	Selling, etc., wrongly made tail lamps or reflectors.	Summarily.	Level 5 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
Schedule 1 paragraph 4	Applying warranty to equipment, protective helmet, appliance or information in defending proceedings under Article 26, 28 or 29(4) where no warranty given, or applying false warranty.	Summarily.	Level 3 on the standard scale.			
<i>Offences under this Order</i>						
Article 27	Failing to give information as to date of birth or sex to court or to provide Department with evidence of date of birth, etc.	Summarily.	Level 3 on the standard scale.			
Article 28	Failing to produce licence and counterpart to court making order for interim disqualification.	Summarily.	Level 3 on the standard scale.			
Article 29	Failing to produce licence and counterpart to court for	Summarily.	Level 3 on the standard scale.			

(1) Provision creating offence	(2) General nature of offence	(3) Mode of prosecution	(4) Punishment	(5) Disqualification	(6) Endorsement	(7) Penalty points
	endorsement on conviction of offence involving obligatory or discretionary disqualification.					
Article 67(2)	Removing fixed penalty notice fixed to vehicle.	Summarily.	Level 2 on the standard scale.			
Article 72	False statement in response to notice to owner.	Summarily.	Level 5 on the standard scale.			

PART II

OTHER OFFENCES

(1) Offence	(2) Disqualification	(3) Endorsement	(4) Penalty points
Manslaughter by the driver of a motor vehicle.	Obligatory.	Obligatory.	3-11
Stealing or attempting to steal a motor vehicle.	Discretionary.		
An offence or attempt to commit an offence in respect of a motor vehicle under section 12 of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.)) (taking conveyance without consent of owner etc. or, knowing it has been so taken, driving it or allowing	Discretionary.		

(1) Offence	(2) Disqualification	(3) Endorsement	(4) Penalty points
oneself to be carried in it).			
An offence under section 24 of the Theft Act (Northern Ireland) 1969 (going equipped for stealing, etc.) committed with reference to the theft or taking of motor vehicles.	Discretionary		
Contravention by the driver of a motor vehicle of regulation 8, 9, 10 or 12(2) of the "Zebra" Pedestrian Crossings Regulations (Northern Ireland) 1974 (S.R. 1974 No. 15).	Discretionary.	Obligatory.	3
Contravention by the driver of a motor vehicle of regulation 7 (school crossing patrol sign) of the Traffic Signs Regulations (Northern Ireland) 1979 (S.R. 1979 No. 386).	Discretionary	Obligatory.	3
Contravention by the driver of a motor vehicle of regulation 6(6), 8(2) or 12 of the (Pelican) Pedestrian Crossings Regulations (Northern Ireland) 1989 (S.R. 1989 No. 145).	Discretionary.	Obligatory.	3
An offence under Article 20 of the Roads (Northern Ireland) Order 1993 of using a special road in contravention of paragraph (1) or (2) of that Article or of regulations made	Discretionary if committed in respect of a motor vehicle otherwise than by unlawfully stopping or allowing the vehicle to remain at rest on a part of a special road on which vehicles are in certain circumstances	Obligatory if committed as mentioned in column 2.	3-6 if committed in respect of a speed restriction or 3 in any other case.

(1) Offence	(2) Disqualification	(3) Endorsement	(4) Penalty points
under paragraph (3) of that Article.	permitted to remain at rest.		

SCHEDULE 2

Article 73.

STATUTORY STATEMENTS

PART I

STATUTORY STATEMENT OF OWNERSHIP OR HIRING

1.—(1) or the purposes of Part IV of this Order, a statutory statement of ownership is a statement on an official form signed by the person providing it and stating whether he was the owner of the vehicle at the time of the alleged offence and, if he was not the owner of the vehicle at that time, whether—

- (a) he was never the owner, or
- (b) he ceased to be the owner before, or became the owner after, that time,

and in a case within paragraph (b), stating, if the information is in his possession, the name and address of the person to whom, and the date on which, he disposed of the vehicle or (as the case may be) the name and address of the person from whom, and the date on which, he acquired it.

(2) An official form for a statutory statement of ownership shall—

- (a) indicate that the person providing the statement in response to a notice to owner relating to an offence may give notice requesting a hearing in respect of the offence in the manner specified in the form, and
- (b) direct the attention of any person proposing to complete the form to the information provided in accordance with paragraph 3(3) in any official form for a statutory statement of facts.

2.—(1) For the purposes of Part IV of this Order, a statutory statement of hiring is a statement on an official form, signed by the person providing it, being a person by whom a statement of liability was signed, and stating—

- (a) whether at the time of the alleged offence the vehicle was let to him under the hiring agreement to which the statement of liability refers, and
- (b) if it was not, the date on which he returned the vehicle to the possession of the vehicle-hire firm concerned.

(2) An official form for a statutory statement of hiring shall—

- (a) indicate that the person providing the statement in pursuance of a notice relating to an offence served under Article 68 by virtue of Article 71 may give notice requesting a hearing in respect of the offence in the manner specified in the form, and
- (b) direct the attention of any person proposing to complete the form to the information provided in accordance with paragraph 3(3) in any official form for a statutory statement of facts.

(3) In sub-paragraph (1) “statement of liability”, “hiring agreement” and “vehicle-hire firm” have the same meanings as in Article 71.

PART II

STATUTORY STATEMENT OF FACTS

3.—(1) For the purposes of Part IV of this Order, a statutory statement of facts is a statement on an official form, signed by the person providing it, which—

- (a) states that the person providing it was not the driver of the vehicle at the time of the alleged offence, and
- (b) states the name and address at the time when the statement is provided of the person who was the driver of the vehicle at the time of the alleged offence.

(2) A statutory statement of facts has effect as a notice given by the driver requesting a hearing in respect of the offence if it is signed by the person identified in the statement as the driver of the vehicle at the time of the alleged offence.

(3) An official form for a statutory statement of facts shall indicate—

- (a) that if a person identified in the statement as the driver of the vehicle at the time of the alleged offence signs the statement he will be regarded as having given notice requesting a hearing in respect of the offence,
- (b) that the person on whom the notice to owner relating to the offence is served may not give notice requesting a hearing in respect of the offence on his own account if he provides a statutory statement of facts signed by a person so identified, and
- (c) that if the fixed penalty is not paid before the end of the period stated in the notice to owner as the period for response to the notice, a sum determined by reference to that fixed penalty may be registered without any court hearing for enforcement as a fine against the person on whom the notice to owner is served, unless he has given notice requesting a hearing in respect of the offence,

but that, in a case within paragraph (c), the sum in question may not be so registered if the person on whom the notice to owner is served provides a statutory statement of facts as mentioned in paragraph (b) until 2 months have elapsed from the end of the period so stated without service of a summons in respect of the offence on the person identified in that statement as the driver of the vehicle.

SCHEDULE 3

Article 97(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

AMENDMENTS OF THE ORDERS OF 1981 AND 1995

Amendments of the Order of 1981

1. In Article 2 (interpretation), in paragraph (2)—

- (a) insert the following definition at the appropriate place alphabetically—

““the Offenders Order” means the Road Traffic Offenders (Northern Ireland) Order 1996;” and

- (b) omit the definition of “reckonable year”.
2. In Article 4 (exceptions to requirement that drivers of motor vehicles have driving licences), in paragraph (3)(a) after the word “Orders” insert “or of the Offenders Order”.
3. In Article 5 (tests of competence to drive) at the end of paragraph (3)(a) insert “and Article 41 of the Offenders Order (disqualification)”.
4. In Article 10 (revocation of licence because of disability or prospective disability), after paragraph (3) add the following paragraph—
- “(4) Where a person whose licence is revoked under paragraph (1) or (2)—
- (a) is not in possession of his licence and its counterpart in consequence of the fact that he has surrendered them to a constable or an authorised person (within the meaning of Part IV of the Offenders Order) on receiving a fixed penalty notice given to him under Article 60 of that Order, but
- (b) delivers them to the Department immediately on their return,
- he is not in breach of the duty under paragraph (3).”
5. In Article 11 (provision of information, etc., relating to disabilities), after paragraph (3) insert the following paragraph—
- “(3A) Proceedings for an offence under paragraph (3) are subject to Article 7 of the Offenders Order.”
6. In Article 15 (duration of licences), after paragraph (7) insert the following paragraph—
- “(7A) Where a person who has a duty under this Article to surrender his licence and its counterpart is not in possession of them in consequence of the fact that he has surrendered them to a constable or authorised person (within the meaning of Part IV of the Offenders Order) on receiving a fixed penalty notice given to him under Article 60 of that Order he does not fail to comply with that duty if he surrenders the licence and its counterpart to the Department immediately on their return.”
7. In Article 19A (restrictions on newly qualified drivers, etc.)—
- (a) in paragraph (1) for the words from “or 152” to “Article 196” substitute “or an order made under Article 41 of the Offenders Order”;
- (b) in paragraph (5) for “Article 196” substitute “Article 41 of the Offenders Order”; and
- (c) in paragraph (7) for “Article 197” substitute “Article 49 of the Offenders Order”.
- 8.—(1) In Article 19C (regulations for the purposes of Part II), in paragraph (1) for the words from the beginning to “with respect to –” substitute—
- “(1) The Department may make regulations for any purpose for which regulations may be made under the provisions of this Part and the relevant provisions of the Offenders Order and for prescribing anything which may be prescribed under any of those provisions, and otherwise for the purpose of carrying any of those provisions into effect.
- (1A) In particular, but without prejudice to the generality of paragraph (1), the regulations may make provision with respect to –”.
- (2) In paragraph (1) of that Article—
- (a) in sub-paragraph (f) omit the words “for any purpose of this Part”; and
- (b) in sub-paragraph (g) omit the words “for the purposes of this Part”.

- (3) After paragraph (3) of that Article add the following paragraph—
- “(4) In this Article “the relevant provisions of the Offenders Order” means the following provisions of that Order: Articles 6, 11, 12, 26 to 28, 29, 33, 35 to 38 and 40 to 53.”
- 9.** In Article 19E (provisions as to Great Britain drivers' licences)—
- (a) in paragraph (2) for the words from “and the provisions” to the end substitute—
- “and the provisions—
- (a) of this Order, and
- (b) of the Offenders Order, being the provisions connected with the licensing of drivers within the meaning of that Order,
- as to the production of licences and counterparts of licences granted under this Part shall apply accordingly.”;
- (b) in paragraph (5) for “Article 197” substitute “Article 49 of the Offenders Order”.
- 10.** In Article 73 (revocation or suspension of large goods vehicle or passenger-carrying vehicle driver's licence) in paragraph (3) for the words “paragraph (1)(a)” substitute “this Article or Article 74”.
- 11.**—(1) In Article 74 (disqualification on revocation of large goods vehicle or passenger-carrying vehicle driver's licence), in paragraph (1) for the words “for the purposes of that sub-paragraph” substitute “in pursuance of Article 73(3)”.
- (2) After paragraph (2) of that Article insert—
- “(2A) Regulations may make provision for the application of paragraphs (1) and (2), in such circumstances and with such modifications as may be prescribed, where a person's large goods vehicle or passenger-carrying vehicle driver's licence is treated as revoked by virtue of Article 42(1) of the Offenders Order (effect of disqualification by order of a court).”
- 12.** In Article 97 (requirements as to production of certificate of insurance or of security), in paragraph (3) for “5 days” substitute “7 days”.
- 13.** In Article 118 (employment of traffic wardens), in paragraph (1) after the word “Part” insert “and Article 90(1) of the Offenders Order”.
- 14.** In Article 132(1) (register of approved driving instructors) for “138” substitute “137”.
- 15.** In Article 133 (driving instruction for payment to be given only by registered or licensed persons), in paragraph (5) omit the words “and Article 138”.
- 16.** In Article 137 (production of certificates and licences to constables and authorised persons), in paragraph (3) for “5 days” substitute “7 days”.
- 17.** In Article 166(1) (applying, etc., for licence while disqualified), after sub-paragraph (b) add—
- “or
- (c) by or under the Offenders Order.”
- 18.** In Article 167(1) (driving, etc., a motor vehicle while disqualified), after sub-paragraph (b) add—
- “or
- (c) by or under the Offenders Order.”

19. In Article 174(2) (false statements in connection with forgery of, and fraudulent use of, documents, etc.), after “1995” insert “or a certificate of a kind referred to in Article 37(1) of the Offenders Order”.

20.—(1) In Article 177 (identification of drivers, etc. of vehicles), the existing provision shall become paragraph (1) and for the words from “under” (first time) to “road traffic”, there shall be substituted “to which this Article applies”.

(2) After paragraph (1) of that Article insert—

“(2) This Article applies to—

- (a) an offence under any provision of the Road Traffic Orders,
- (b) an offence under Article 27,28 or 29 of the Offenders Order,
- (c) an offence under any other enactment relating to the use of vehicles on roads, and
- (d) an offence of manslaughter committed by the driver of a motor vehicle.”

21.—(1) In Article 180 (enforcement powers of constable), after paragraph (3) insert—

“(3A) A person required by a constable under paragraph (2) or (3) to produce his licence must in prescribed circumstances, on being required to do so by the constable, state his date of birth.

(3B) Where a person has been required under Article 28 or 29 of the Offenders Order to produce a licence and its counterpart to the court and fails to do so, a constable may require him to produce them and, upon their being produced, may seize them and deliver them to the court.”

(2) In paragraph (4) of that Article for “5 days” substitute “7 days”.

(3) After paragraph (4) of that Article insert—

“(4AA) Paragraph (4) does not apply where a person required on any occasion under the preceding provisions of this Article to produce his licence and its counterpart—

- (a) produces on that occasion a current receipt for the licence and its counterpart issued under Article 62 of the Offenders Order and, if required to do so, produces the licence and its counterpart in person immediately on their return at a police station that was specified on that occasion, or
- (b) within 7 days after that occasion produces such a receipt in person at a police station that was specified by him on that occasion and, if required to do so, produces the licence and its counterpart in person immediately on their return at that police station.

(4AB) Where in accordance with this Article a person has stated his date of birth to a constable, the Department may serve on that person a notice in writing requiring him to provide the Department—

- (a) with such evidence in that person’s possession or obtainable by him as the Department may specify for the purpose of verifying that date; and
- (b) if his name differs from his name at the time of his birth, with a statement in writing specifying his name at that time,

and a person who knowingly fails to comply with a notice under this paragraph is guilty of an offence.”

(4) In paragraph (7) of that Article, after the word “Orders” insert “or who fails to state his date of birth when required under paragraph (3A) to do so”.

22.—(1) In Article 212 (application of Order to hovercraft and trolley vehicles), in paragraph (1) after the words “this Order” insert “and the Offenders Order”.

(2) In paragraph (3) of that Article omit “16922)” and from “184” to “Schedule 4”.

23. In Article 215 (application of Order to harbour commissioners), in paragraph (2) omit sub-paragraph (b).

Amendments of the Order of 1995

24. In Article 2(2) (interpretation), insert the following definition at the appropriate place alphabetically—

““the Offenders Order” means the Road Traffic Offenders (Northern Ireland) Order 1996;”.

25. In Article 4(5) (regulations varying maximum weights of motor vehicles), in sub-paragraph (b) after the word “Orders” insert “and of the Offenders Order”.

26. In Article 5(3) (articulated vehicles), after the word “Orders” insert “, the Offenders Order”.

27. In Article 6(1) (certain vehicles not to be treated as motor vehicles), in paragraph (1) after the word “Orders” insert “or the Offenders Order”.

28. In Article 7(1) (method of calculating weight of motor vehicles and trailers), after the word “Orders” insert “and of the Offenders Order”.

29. In Article 17(7) (definition of “traffic offence”), after sub-paragraph (b) add—

“or

(c) an offence under any provision of the Offenders Order except Part IV.”

30. In Article 32 (leaving vehicles in dangerous positions), for the words from “cause” (first time) to “danger” substitute “involve a danger of injury to other persons using the road”.

31.—(1) In Article 49 (contravention of traffic directions or traffic signs), the existing provision shall become paragraph (1).

(2) After paragraph (1) of that Article insert—

“(2) The Department may by regulations specify any traffic sign for the purposes of column (5) of the entry in Schedule 1 to the Offenders Order relating to offences under this Article (offences committed by failing to comply with certain signs involve discretionary disqualification).”.

32. In Article 105(1) (hovercraft), after the word “Order” insert “and the Offenders Order”.

33. In Schedule 3 (minor and consequential amendments), in paragraph 22 for the words from the beginning to “192(1)”, substitute “In Article 187(1)”.

PART II

AMENDMENTS OF OTHER ENACTMENTS

The Criminal Justice (Northern Ireland) Order 1980 NI 6

34.—(1) In Article 8 (driving disqualification where vehicle used for purpose of crime), in paragraph (2) for the words “Article 197(1) of that Order” substitute “Article 49(1) of the Road Traffic Offenders (Northern Ireland) Order 1996”.

- (2) In paragraph (3)(b) of that Article—
- (a) for the words “Article 194 of that Order” substitute “Article 47 of the Road Traffic Offenders (Northern Ireland) Order 1996”; and
- (b) for the words “paragraph (9)” substitute “paragraph (6)”.
- (3) After paragraph (4) of that Article add—
- “(5) Paragraphs (3B), (4) and (4AA) of Article 180 of the Road Traffic (Northern Ireland) Order 1981 shall apply for the purposes of paragraph (3) in the same manner as they apply for the purposes of Article 29 of the Road Traffic Offenders (Northern Ireland) Order 1996.”

The Police and Criminal Evidence (Northern Ireland) Order 1989 NI 12

35. In Article 62 (intimate samples), in paragraph (I 1) for the words from “or Articles” to the end substitute “or Articles 18 and 19 of the Road Traffic Offenders (Northern Ireland) Order 1996”.

36. In Part II of Schedule 5 (serious arrestable offences), the provision inserted by paragraph 39 of Schedule 3 to the Order of 1995 as paragraph 13 shall be renumbered as paragraph 13A; and any reference to that provision in any statutory provision shall have effect accordingly.

Number	Short title	Extent of repeal
1981 NI 1.	The Road Traffic (Northern Ireland) Order 1981.	<p>Article 1(3).</p> <p>In Article 2(2), the definition of “reckonable year”.</p> <p>In Article 19C(1)(f), the words “for any purpose of this Part”.</p> <p>In Article 19C(1)(g), the words “for the purposes of this Part”.</p> <p>In Article 62(3), the words from “and upon” to the end.</p> <p>In Article 62(4), the words “and the driver” and the words from “or the licence” to “may require”.</p> <p>Article 120.</p> <p>In Article 133(5), the words “and Article 138”.</p> <p>Articles 138 to 140, 150 to 152, 157(1), 169, 174B, 175(3) and (4), 182 to 186 and 188 to 204.</p> <p>In Article 212(3), “169(2)” and from “184” to “Schedule 4”.</p> <p>Article 215(2)(b).</p> <p>Schedule 4.</p>

Number	Short title	Extent of repeal
1981 NI 26.	The Magistrates' Courts (Northern Ireland) Order 1981.	In Schedule 6, paragraphs 169, 172 and 173.
1982 NI 18.	The Disabled Persons (Northern Ireland) Order 1982.	Article 4(1)(e).
1984 NI 3.	The Fines and Penalties (Northern Ireland) Order 1984.	In Schedule 2, paragraph 20.
1984 NI 15.	The Road Traffic, Transport and Roads (Northern Ireland) Order 1984.	In Schedule 1, paragraph 7.
1985 NI 6.	The Road Traffic (Type Approval) (Northern Ireland) Order 1985.	Article 5.
1991 NI 3.	The Road Traffic (Amendment) (Northern Ireland) Order 1991.	Article 8.
1995 NI 18.	The Road Traffic (Northern Ireland) Order 1995.	In Schedule 4, paragraphs 2,6(b) and (c) and 10. Articles 94 to 97,98(3) and (4) 100 to 104 and 106(d). Schedule 2. In Schedule 3, paragraphs 11, 21, 23 to 26 and 32.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision with respect to the prosecution and punishment (including the punishment without conviction) of road traffic offences in Northern Ireland.

Part II deals with various matters concerning the trial of road traffic offences and Part III makes provision with respect to the penalties that may be incurred on conviction of such offences. The mode of prosecuting such offences and the manner in which they may be punished is set out in tabular form in Schedule 1. Penalties on conviction include a fine and, in some cases, imprisonment. In addition a court may (and in certain instances must) on convicting a person of some offences order that he be disqualified for driving or that his licence be endorsed. Penalty points may be attributed where a person is convicted of an offence involving obligatory endorsement of his driving licence. The penalty points are to be taken into account if he is convicted of a further offence.

Under Part IV persons alleged to have committed certain road traffic offences may discharge liability to conviction by payment of a fixed penalty.